

## AIDS PREVENTION ACT OF 1990

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MAY 31, 1990.—Committed to the Committee of the Whole House on the State of the  
Union and ordered to be printed

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Mr. DINGELL, from the Committee on Energy and Commerce,  
submitted the following

### R E P O R T

together with

### ADDITIONAL VIEWS

[To accompany H.R. 4785]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 4785) to amend the Public Health Service Act to establish a program of grants to provide preventive health services with respect to acquired immune deficiency syndrome, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill, as amended, do pass.

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The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "AIDS Prevention Act of 1990".

# **TITLE I—PREVENTIVE HEALTH SERVICES WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME**

**SEC. 101. ESTABLISHMENT OF PROGRAM OF GRANTS.**

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended—

- (1) by redesignating title XXVI as title XXVII;
- (2) by redesignating sections 2601 through 2614 as sections 2701 through 2714, respectively; and
- (3) by inserting after title XXV the following new title:

## **"TITLE XXVI—PREVENTIVE HEALTH SERVICES WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME**

### **"PART A—GRANTS FOR PROVISION OF SERVICES**

**"SEC. 2601. ESTABLISHMENT OF PROGRAM.**

"(a) **ALLOTMENTS FOR STATES.**—For the purposes described in subsection (c), the Secretary, acting through the Director of the Centers for Disease Control and the Administrator of the Health Resources and Services Administration, shall for each of the fiscal years 1991 through 1995 make an allotment for each State in an amount determined in accordance with section 2613. The Secretary shall make payments, as grants, to each State from the allotment for the State for the fiscal year involved if the Secretary approves for the fiscal year an application submitted by the State pursuant to section 2612.

"(b) **CATEGORICAL GRANTS.**—For the purposes described in subsection (c), the Secretary, acting through the Director of the Centers for Disease Control and the Administrator of the Health Resources and Services Administration, may make grants to public and nonprofit private entities specified in subsection (d)(1).

**"(c) PURPOSES OF GRANTS.—**

"(1) **IN GENERAL.**—The Secretary may not make a grant under subsection (a) or (b) unless the applicant for the grant agrees to expend the grant for the purposes of providing, on an outpatient basis, the preventive health services specified in paragraph (2) with respect to acquired immune deficiency syndrome.

"(2) **SPECIFICATION OF PREVENTIVE HEALTH SERVICES.**—The preventive health services referred to in paragraph (1) are—

"(A) counseling individuals with respect to acquired immune deficiency syndrome in accordance with section 2603;

"(B) testing individuals with respect to such syndrome, including tests to confirm the presence of an infection with the etiologic agent for such syndrome, tests to diagnose the extent of the deficiency in the immune system, and tests to provide information on appropriate therapeutic measures for preventing and treating the deterioration of the immune system and for preventing and treating conditions arising from the infection; and

"(C) providing the therapeutic measures described in subparagraph (B).

"(3) **REQUIREMENT OF AVAILABILITY OF ALL PREVENTIVE HEALTH SERVICES THROUGH EACH GRANTEE.**—The Secretary may not make a grant under subsection (a) or (b) unless the applicant for the grant agrees that each of the preventive health services specified in subparagraphs (A) through (C) of paragraph (2) will be available through the applicant. With respect to compliance with such agreement, a grantee under subsection (a) or (b) may expend the grant to provide the preventive health services directly, and may expend the grant to enter into agreements with other public or nonprofit private entities under which the entities provide the services.

"(4) **OPTIONAL SERVICES.**—A grantee under subsection (a) or (b)—

"(A) may expend the grant to provide outreach services to inform individuals, as appropriate, of the availability of preventive health services from the grantee; and

"(B) may, in the case of individuals who seek preventive health services from the grantee, expend the grant—

"(i) for case management to provide coordination in the provision of health care services to the individuals and to review the extent of utilization of the services by the individuals; and

"(ii) to provide assistance to the individuals regarding establishing the eligibility of the individuals for financial assistance and services under Federal, State, or local programs providing for health services, mental health services, social services, or other appropriate services.

"(d) REQUIREMENT REGARDING STATUS AS MEDICAID PROVIDER.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary may not make a grant under subsection (a) or (b) for the provision of preventive health services under subsection (c) in a State unless, in the case of any such service that is available pursuant to the State plan approved under title XIX of the Social Security Act for the State—

"(A) the applicant for the grant will provide the preventive health service directly, and the applicant has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

"(B) the applicant for the grant has entered into an agreement with a public or nonprofit private entity under which the entity will provide the health service, and the entity has entered into such a participation agreement and is qualified to receive such payments.

"(2) WAIVER REGARDING CERTAIN SECONDARY AGREEMENTS.—

"(A) In the case of an entity making an agreement pursuant to paragraph (1)(B) regarding the provision of preventive health services, the requirement established in such paragraph shall be waived by the Secretary if the entity does not, in providing health care services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

"(B) A determination by the Secretary of whether an entity referred to in subparagraph (A) meets the criteria for a waiver under such subparagraph shall be made without regard to whether the entity accepts voluntary donations regarding the provision of services to the public.

"(e) PROVISIONS REGARDING CATEGORICAL GRANTS.—

"(1) CERTAIN MINIMUM QUALIFICATIONS OF GRANTEEES.—The entities referred to in subsection (b) are public entities (including States), and nonprofit private entities, that—

"(A) are grantees pursuant to section 317(j)(2), section 318(c), section 329, section 330, section 340, section 509A, or section 1001;

"(B) are hospitals;

"(C) are health care facilities that provide, on an outpatient basis, care for individuals infected with the etiologic agent for acquired immune deficiency syndrome;

"(D) have under any appropriations Act received funds as alternate blood testing sites;

"(E) are comprehensive hemophilia diagnostic and treatment centers; or

"(F) are otherwise experienced in providing health care to individuals at risk of infection with such etiologic agent.

"(2) PREFERENCES IN MAKING CATEGORICAL GRANTS.—

"(A) Subject to subparagraph (B), the Secretary shall, in making grants under subsection (b), give preference to qualified applicants that will provide preventive health services pursuant to such subsection in any geographic area for which—

"(i) in the case of grants for fiscal year 1991, the number of additional cases of acquired immune deficiency syndrome, as indicated by the number of such cases reported to and confirmed by the Secretary for the most recent fiscal year for which such data is available, increased significantly above the number of additional cases of such syndrome reported to and confirmed by the Secretary for the fiscal year immediately preceding such most recent fiscal year; and

"(ii) in the case of grants for fiscal year 1992 and subsequent fiscal years, the number of additional cases of infection with the etiologic

agent for acquired immune deficiency syndrome, as indicated by the number of such cases for the most recent fiscal year for which such data is available, increased significantly above the number of additional such cases for the fiscal year immediately preceding such most recent fiscal year.

“(B) In the case of grants under subsection (b) for fiscal year 1992 and subsequent fiscal years, the Secretary shall, for purposes of preferences under subparagraph (A), apply the criteria described in clause (i) of such subparagraph if the Secretary determines that sufficient and accurate data are not available for applying the criteria described in clause (ii) of such subparagraph.

“(C) In providing preferences under subparagraph (A) for a fiscal year, the Secretary shall give special consideration to rural areas meeting the applicable criteria established in such subparagraph.

“(3) REQUIREMENT REGARDING SERVICES FOR INDIVIDUALS WITH HEMOPHILIA.—In making grants under subsection (b), the Secretary shall ensure that any such grants made regarding the provision of preventive health services to individuals with hemophilia are made through the network of comprehensive hemophilia diagnostic and treatment centers.

“(4) TECHNICAL ASSISTANCE REGARDING APPLICATIONS.—The Secretary may, directly or through grants or contracts, provide technical assistance to nonprofit private entities regarding the process of submitting to the Secretary applications for grants under subsection (b).

“SEC. 2602. REQUIREMENTS REGARDING CONFIDENTIALITY AND INFORMED CONSENT.

“(a) CONFIDENTIALITY.—The Secretary may not make a grant under section 2601 unless—

“(1) in the case of any State applying for such a grant, the State agrees to ensure that information regarding the receipt of preventive health services is maintained confidentially pursuant to law or regulations in a manner not inconsistent with applicable law; and

“(2) in the case of any other entity applying for such a grant, the entity agrees to ensure that information regarding the receipt of preventive health services pursuant to the grant is maintained confidentially in a manner not inconsistent with applicable law.

“(b) INFORMED CONSENT.—

“(1) IN GENERAL.—The Secretary may not make a grant under section 2601 unless the applicant for the grant agrees that, in conducting testing pursuant to subsection (c)(1) of such section, the applicant will test an individual only after obtaining from the individual a statement, made in writing and signed by the individual, declaring that the individual has undergone the counseling described in section 2603(a) and that the decision of the individual with respect to undergoing such testing is voluntarily made.

“(2) PROVISIONS REGARDING ANONYMOUS TESTING.—

“(A) If, pursuant to section 2611(b), an individual will undergo testing pursuant to subsection (c)(1) of section 2601 through the use of a pseudonym, a grantee under such section shall be considered to be in compliance with the agreement made under paragraph (1) if the individual signs the statement described in such subsection using the pseudonym.

“(B) If, pursuant to section 2611(b), an individual will undergo testing pursuant to subsection (c)(1) of section 2601 without providing any information relating to the identity of the individual, a grantee under such section shall be considered to be in compliance with the agreement made under paragraph (1) if the individual orally provides the declaration described in such paragraph.

“SEC. 2603. REQUIREMENT OF PROVISION OF CERTAIN COUNSELING SERVICES.

“(a) COUNSELING BEFORE TESTING.—The Secretary may not make a grant under section 2601 unless the applicant for the grant agrees that, before testing an individual pursuant to subsection (c)(1) of such section, the applicant will provide to the individual appropriate counseling regarding acquired immune deficiency syndrome (based on the most recently available scientific data), including counseling on—

“(1) measures for the prevention of exposure to, and the transmission of, the etiologic agent for such syndrome;

“(2) the accuracy and reliability of the results of testing for infection with such agent;

“(3) the significance of the results of such testing, including the potential for developing acquired immune deficiency syndrome;

"(4) encouraging the individual, as appropriate, to undergo such testing;

"(5) the benefits of such testing, including the medical benefits of diagnosing the infection in the early stages and the medical benefits of receiving preventive health services during such stages;

"(6) provisions of law relating to the confidentiality of the process of receiving such services, including information regarding any disclosures that may be authorized under applicable law and information regarding the availability of anonymous counseling and testing pursuant to section 2611(b); and

"(7) provisions of applicable law relating to discrimination against individuals infected with the etiologic agent for acquired immune deficiency syndrome.

"(b) COUNSELING OF INDIVIDUALS WITH NEGATIVE TEST RESULTS.—The Secretary may not make a grant under section 2601 unless the applicant for the grant agrees that, if the results of testing conducted pursuant to such section indicate that an individual is not infected with the etiologic agent for acquired immune deficiency syndrome, the applicant will review for the individual the information provided pursuant to subsection (a), including—

"(1) the information described in paragraphs (1) through (3) of such subsection; and

"(2) the appropriateness of further counseling, testing, and education of the individual regarding such syndrome.

"(c) COUNSELING OF INDIVIDUALS WITH POSITIVE TEST RESULTS.—The Secretary may not make a grant under section 2601 unless the applicant for the grant agrees that, if the results of testing conducted pursuant to such section indicate that the individual is infected with the etiologic agent for acquired immune deficiency syndrome, the applicant will provide to the individual appropriate counseling regarding such syndrome, including—

"(1) reviewing the information described in paragraphs (1) through (3) of subsection (a);

"(2) reviewing the appropriateness of further counseling, testing, and education of the individual regarding such syndrome; and

"(3) providing counseling on—

"(A) the availability, through the applicant, of preventive health services;

"(B) the availability in the geographic area of appropriate health care, mental health care, and social and support services, including providing referrals for such services, as appropriate;

"(C) the benefits of locating and counseling any individual by whom the infected individual may have been exposed to such etiologic agent and any individual whom the infected individual may have exposed to such agent; and

"(D) the availability of the services of public health authorities with respect to locating and counseling any individual described in subparagraph (C).

"(d) ADDITIONAL REQUIREMENTS REGARDING APPROPRIATE COUNSELING.—The Secretary may not make a grant under section 2601 unless the applicant for the grant agrees that, in counseling individuals with respect to acquired immune deficiency syndrome pursuant to this section, the applicant will, when appropriate, ensure that individuals (including women, children, and hemophiliacs) are provided opportunities to undergo the counseling under conditions appropriate to their needs with respect to the counseling.

"(e) COUNSELING OF EMERGENCY RESPONSE EMPLOYEES.—The Secretary may not make a grant under section 2601 to a State unless the State agrees that, in counseling individuals with respect to acquired immune deficiency syndrome pursuant to this section, the State will provide opportunities for emergency response employees to undergo the counseling under conditions appropriate to their needs with respect to the counseling.

"(f) RULE OF CONSTRUCTION REGARDING COUNSELING WITHOUT TESTING.—Agreements made pursuant to this section may not be construed to prohibit any grantee under section 2601 from expending the grant for the purpose of providing counseling services described in this sections to an individual who will not undergo testing regarding acquired immune deficiency syndrome as a result of the grantee or the individual determining that such testing of the individual is not appropriate.

"SEC. 2604. APPLICABILITY OF REQUIREMENTS REGARDING CONFIDENTIALITY, INFORMED CONSENT, AND COUNSELING.

"The Secretary may not make a grant under section 2601 unless the applicant for the grant agrees that, with respect to testing for infection with the etiologic agent for acquired immune deficiency syndrome, any such testing carried out by the appli-

cant will, without regard to whether such testing is carried out with Federal funds, be carried out in accordance with conditions described in sections 2602 and 2603.

**"SEC. 2605. REQUIREMENT FOR CERTAIN GRANTEEES OF OFFERING AND ENCOURAGING PREVENTIVE HEALTH SERVICES.**

**"(a) IN GENERAL.**—The Secretary may not make a grant under section 2601 unless, with respect to preventive health services, the applicant for the grant agrees that—

"(1) if the applicant is a health care provider that regularly provides treatment for sexually transmitted diseases, the applicant will offer and encourage such services with respect to individuals to whom the applicant provides such treatment;

"(2) if the applicant is a health care provider that regularly provides treatment for intravenous substance abuse, the applicant will offer and encourage such services with respect to individuals to whom the applicant provides such treatment;

"(3) if the applicant is a family planning clinic, the applicant will, as medically appropriate for the individuals involved, offer and encourage such services with respect to individuals to whom the applicant provides family planning services;

"(4) if the applicant is a health care provider that provides treatment for tuberculosis, the applicant will offer and encourage such services with respect to individuals to whom the applicant provides such treatment; and

"(5) if the applicant is a health care provider that regularly provides health care to pregnant women, the applicant will offer and encourage such services with respect to any pregnant woman to whom the applicant provides health care and whom the applicant determines is at risk with respect to acquired immune deficiency syndrome.

**"(b) REFERRALS REGARDING PEDIATRIC CASES.**—The Secretary may not make a grant under section 2601 to an applicant to which subsection (a)(5) applies unless the applicant agrees that, if a grantee under section 2653 exists in the geographic area involved, the applicant will provide a referral to the grantee for any pregnant woman determined by the applicant to be infected with the etiologic agent for acquired immune deficiency syndrome.

**"(c) SUFFICIENCY OF AMOUNT OF GRANT.**—With respect to compliance with the agreement made under subsection (a), the Secretary may require a grantee under section 2601 to offer, encourage, and provide preventive health services in accordance with such subsection only to the extent that the amount of the grant is sufficient to pay the costs of offering, encouraging, and providing the services.

**"(d) CRITERIA FOR OFFERING AND ENCOURAGING.**—Subject to section 2601(c)(3), a grantee to whom subsection (a) applies is, for purposes of such subsection, offering and encouraging preventive health services with respect to the individuals involved if the grantee—

"(1) offers such services to the individuals, and encourages the individuals to receive the services, as a regular practice in the course of providing the health care involved; and

"(2) provides the preventive health services only with the consent of the individuals.

**"SEC. 2606. GRANTS FOR HOSPITALS REGARDING OFFERING, ENCOURAGING, AND PROVIDING PREVENTIVE HEALTH SERVICES.**

**"(a) IN GENERAL.**—In addition to grants under section 2601, the Secretary may make grants to public and nonprofit private hospitals for the purpose of offering, encouraging, and providing preventive health services to inpatients of the hospital.

**"(b) MINIMUM QUALIFICATIONS OF GRANTEEES.**—The Secretary may not make a grant under subsection (a) unless the hospital involved has, for the most recent fiscal year for which the data is available, admitted as inpatients of the hospital—

"(1) not fewer than 250 individuals with acquired immune deficiency syndrome; or

"(2) a number of such individuals constituting 20 percent of the number of inpatients of the hospital admitted during such period.

**"(c) REQUIREMENT OF OFFERING, ENCOURAGING, AND PROVIDING PREVENTIVE HEALTH SERVICES.**—

"(1) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless, subject to paragraph (2), the hospital involved agrees—

"(A) to offer and encourage preventive health services with respect to—

"(i) any inpatient of the hospital who is between 15 and 50 years of age (inclusive); and

"(ii) any inpatient for whom the hospital determines that such services are medically appropriate; and

"(B) to make available such services to any such inpatient who, pursuant to subparagraph (A), requests the services.

"(2) SUFFICIENCY OF AMOUNT OF GRANT.—With respect to compliance with an agreement under paragraph (1), the Secretary may require a grantee under subsection (a) to offer, encourage, and provide preventive health services only to the extent that the amount of the grant is sufficient to pay the costs of offering, encouraging, and providing the services.

"(d) RESTRICTIONS REGARDING PROVISION OF SERVICES.—The Secretary may not make a grant under subsection (a) unless the hospital involved agrees that—

"(1) the grant will not be expended to provide preventive health services to any individual who is not an inpatient of the hospital; and

"(2) in the case of any inpatient with such an infection with the etiologic agent for acquired immune deficiency syndrome, the grant will not be expended to provide preventive health services to the inpatient if the hospital learns of the infection through any means other than offering encouraging, and providing the services pursuant to subsection (c)(1).

"(e) REQUIRED REFERRALS.—The Secretary may not make a grant under subsection (a) unless the hospital involved agrees that, in the case of any individual to whom the hospital has provided preventive health services pursuant to subsection (c)(1), the hospital will, upon discharging the individual from the hospital, provide appropriate referrals for the individual regarding the receipt of such services on an outpatient basis from a grantee under section 2601, or another appropriate entity, that provides such services in the geographic area involved.

"(f) REPORTS TO SECRETARY.—The Secretary may not make a grant under subsection (a) unless the hospital involved agrees that, with respect to cases of infection with the etiologic agent for acquired immune deficiency syndrome, the hospital will confidentially report to the Secretary, for each fiscal year for which the grant is made, information sufficient—

"(1) to perform statistical and epidemiological analyses of the incidence of such cases among inpatients of the hospital; and

"(2) to perform statistical and epidemiological analyses of the demographic characteristics of the population of such inpatients who have such infections.

"(g) APPLICABILITY OF PROVISIONS REGARDING INFORMED CONSENT, COUNSELING, AND OTHER MATTERS.—The Secretary may not make a grant under subsection (a) unless the hospital involved agrees that sections 2601(c)(3), 2602, 2603, 2604, and 2611 will apply to the provision of preventive health services pursuant to the grant in the same manner and to the same extent as such sections apply to the provision of such services by grantees under section 2601.

"(h) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(i) REPORT TO CONGRESS.—Not later than 1 year after the date on which amounts are first appropriated pursuant to subsection (k), and annually thereafter, the Secretary shall submit to the Congress a report on activities carried out by grantees under this section, including any information regarding acquired immune deficiency syndrome that is developed pursuant to such activities.

"(j) CRITERIA FOR OFFERING AND ENCOURAGING.—For purposes of this section, a hospital receiving a grant under subsection (a) is offering and encouraging preventive health services with respect to the inpatients involved if the hospital—

"(1) offers such services to the inpatients, and encourages the inpatients to receive the services, as a regular practice in the course of providing health care to inpatients of the hospital; and

"(2) provides the preventive health services only with the consent of the inpatients.

"(k) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1991 through 1995.

"SEC. 2607. REQUIREMENT FOR STATE GRANTEES OF NOTIFICATION OF CERTAIN INDIVIDUALS RECEIVING BLOOD TRANSFUSIONS.

"(a) IN GENERAL.—The Secretary may not make a grant under section 2601 to a State unless the State provides assurances satisfactory to the Secretary that, with respect to individuals in the State receiving, between January 1, 1978, and April 1,

1985 (inclusive), a transfusion of whole blood or a blood-clotting factor, the State will—

“(1) encourage the population of such individuals to receive preventive health services; and

“(2) inform such population of any public health facilities in the geographic area involved that provide such services.

“(b) **RULE OF CONSTRUCTION.**—An agreement made under subsection (a) may not be construed to require that, in carrying out the activities described in such subsection, a State receiving a grant under section 2601 provide individual notifications to the individuals described in such subsection.

“**SEC. 2608. REQUIREMENT FOR STATE GRANTEEES OF REPORTING AND PARTNER NOTIFICATION IN CASES OF INFECTION.**

“(a) **REPORTING.**—The Secretary may not make a grant under section 2601 to a State unless, with respect to testing for infection with the etiologic agent for acquired immune deficiency syndrome, the State provides assurances satisfactory to the Secretary that the State will require that any entity carrying out such testing confidentially report to the State public health officer information sufficient—

“(1) to perform statistical and epidemiological analyses of the incidence in the State of cases of such infection;

“(2) to perform statistical and epidemiological analyses of the demographic characteristics of the population of individuals in the State who have such infections; and

“(3) to assess the adequacy of preventive health services in the State.

“(b) **PARTNER NOTIFICATION.**—The Secretary may not make a grant under section 2601 to a State unless the State provides assurances satisfactory to the Secretary that the State will require that the State public health officer, to the extent appropriate in the determination of the officer, carry out a program of partner notification regarding cases of infection with the etiologic agent for acquired immune deficiency syndrome.

“**SEC. 2609. REQUIREMENT FOR STATE GRANTEEES OF ESTABLISHMENT OF CIVIL AND CRIMINAL ACTIONS REGARDING KNOWING TRANSMISSION.**

“(a) **IN GENERAL.**—The Secretary may not make a grant under section 2601 to a State unless—

“(1) subject to the condition described in subsection (b), the State prohibits any individual who is infected with the etiologic agent for acquired immune deficiency syndrome from making a donation of blood, semen, or breast milk, if the individual knows of the infection and knows that the individual will through such donation expose another to such etiologic agent in the event that the donation is utilized;

“(2) subject to the condition described in subsection (b), the State prohibits any individual infected with such etiologic agent from engaging in sexual activity if the individual knows of the infection and knows that the individual will through such sexual activity expose another to such etiologic agent;

“(3) subject to the condition described in subsection (b), the State prohibits any individual infected with such etiologic agent from injecting himself or herself with a hypodermic needle and subsequently providing the needle to another for purposes of hypodermic injection, if the individual knows of the infection and knows that the individual will through the provision of the needle expose another to such etiologic agent in the event that the needle is utilized;

“(4) subject to the condition described in subsection (b), the State prohibits any individual from engaging in any behavior with the intent to expose another to such etiologic agent, which behavior would, if carried out as intended, result in exposing the other individual to such etiologic agent; and

“(5) subject to the condition described in subsection (b), the State authorizes a civil cause of action for damages for any violation of a prohibition described in any of paragraphs (1) through (4), and authorizes a criminal penalty for any such violation.

“(b) **CONSENT TO RISK OF TRANSMISSION.**—The condition referred to in each of paragraphs (1) through (5) of subsection (a) is that the prohibition described in each such paragraph shall not apply if the individual who is subjected to the behavior involved provides prior consent for being exposed to the etiologic agent for acquired immune deficiency syndrome.

“(c) **TIME LIMITATIONS WITH RESPECT TO REQUIRED LAWS.**—With respect to complying with subsection (a) as a condition of receiving a grant under section 2601, the Secretary may make a grant to a State under such section if—

"(1) for each of the fiscal years 1991 and 1992, the State provides assurances satisfactory to the Secretary that by not later than October 1, 1992, the State will establish the prohibitions and civil and criminal actions described in subsection (a); and

"(2) for fiscal year 1993 and subsequent fiscal years, the State has established such prohibitions and such criminal and civil actions.

"(d) **STATE CERTIFICATION WITH RESPECT TO REQUIRED LAWS.**—With respect to complying with subsection (a) as a condition of receiving a grant under section 2601, the Secretary may not require a State to enact any statute, or to issue any regulation, if the chief executive officer of the State certifies to the Secretary that the law of the State is in substantial compliance with this section.

**"SEC. 2610. GRANTS FOR STATES REGARDING MANDATORY TESTING AND OTHER PREVENTIVE HEALTH SERVICES FOR INDIVIDUALS SENTENCED TO CERTAIN STATE PRISONS.**

"(a) **IN GENERAL.**—In addition to grants under section 2601, the Secretary may make grants to States for the purpose of assisting the States in providing preventive health services to individuals sentenced by the State to a term of imprisonment. The Secretary may make such a grant only if the State involved requires, subject to subsection (d), that—

"(1) the services be provided to such individuals; and

"(2) each such individual be informed of the requirements of subsection (c) regarding testing and be informed of the results of such testing of the individual.

"(b) **REQUIREMENT OF MATCHING FUNDS.**—

"(1) **IN GENERAL.**—The Secretary may not make a grant under subsection (a) unless the State involved agrees that, with respect to the costs to be incurred by the State in carrying out the purpose described in such subsection, the State will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to—

"(A) for the first fiscal year of payments under the grant, not less than \$1 for each \$3 of Federal funds provided in the grant;

"(B) for any second fiscal year of such payments, not less than \$1 for each \$2 of Federal funds provided in the grant; and

"(C) for any subsequent fiscal year of such payments, not less than \$1 for each \$1 of Federal funds provided in the grant.

"(2) **DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.**—

"(A) Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(B) In making a determination of the amount of non-Federal contributions for purposes of subparagraph (A), the Secretary may include only non-Federal contributions in excess of the average amount of non-Federal contributions made by the State involved toward the purpose described in subsection (a) for the 2-year period preceding the first fiscal year for which the State is applying to receive a grant under such section.

"(c) **MANDATORY TESTING.**—The Secretary may not make a grant under subsection (a) unless—

"(1) the State involved requires that, subject to subsection (d), any individual sentenced by the State to a term of imprisonment be tested for infection with the etiologic agent for acquired immune deficiency syndrome—

"(A) upon entering the State penal system; and

"(B) during the 30-day period preceding the date on which the individual is released from such system;

"(2) with respect to informing employees of the penal system of the results of such testing of the individual, the State—

"(A) upon the request of any such employee, provides the results to the employee in any case in which the employee has a reasonable basis for believing that the employee may have been exposed by the individual to the etiologic agent; and

"(B) informs the employees of the availability to the employees of such results under the conditions described in subparagraph (A);

"(3) with respect to informing the spouse of the individual of the results of such testing of the individual, the State—

"(A) upon the request of the spouse, provides such results to the spouse prior to each conjugal visit and provides such results to the spouse during the period described in paragraph (1)(B); and

"(B) informs the spouse of the availability to the spouse of such results under the conditions described in subparagraph (A); and

"(4) the State, except as provided in paragraphs (2) and (3), maintains the confidentiality of the results of testing conducted pursuant to this subsection and makes disclosures of such results only as medically necessary.

"(d) DETERMINATION OF PRISONS SUBJECT TO REQUIREMENT.—

"(1) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that the requirement established in such subsection regarding the provision of preventive health services to inmates will apply only to inmates who are incarcerated in prisons with respect to which the State public health officer, after consultation with the chief State correctional officer, has, on the basis of the criteria described in paragraph (2), determined that the provision of such services is appropriate with respect to the public health and safety.

"(2) DESCRIPTION OF CRITERIA.—The criteria to be considered for purposes of paragraph (1) are—

"(A) with respect to the geographic areas in which inmates of the prison involved resided before incarceration in the prison—

"(i) the number of cases of infection with the etiologic agent for acquired immune deficiency syndrome in the geographic areas during the period in which the inmates resided in the areas;

"(ii) the per capita incidence of such cases in the areas during such period; and

"(iii) the extent to which a significant percentage of the population of the areas is known by the State public health officer to have engaged, during such period, in behavior that places individuals at risk with respect to such cases; and

"(B) the extent to which medical examinations conducted by the State for inmates of the prison involved indicate that the inmates have engaged in such behavior.

"(3) AVAILABILITY OF RELEVANT DATA.—The Secretary may not make a grant under subsection (a) unless, with respect to the criteria described in paragraph (2), the State agrees that if sufficient and accurate data regarding the number of cases of infection with the etiologic agent for acquired immune deficiency syndrome is not available, data regarding the number of cases of such syndrome will be utilized.

"(e) APPLICABILITY OF PROVISIONS REGARDING INFORMED CONSENT, COUNSELING, AND OTHER MATTERS.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that sections 2601(c)(3), 2603, and 2611(c) will apply to the provision of preventive health services pursuant to the grant in the same manner and to the same extent as such sections apply to the provision of such services by grantees under section 2601.

"(f) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1991 through 1995.

"SEC. 2611. ADDITIONAL REQUIRED AGREEMENTS.

"(a) REPORTS TO SECRETARY.—The Secretary may not make a grant under section 2601 unless—

"(1) the applicant submits to the Secretary—

"(A) a specification of the expenditures made by the applicant for preventive health services for the fiscal year preceding the fiscal year for which the applicant is applying to receive the grant; and

"(B) an estimate of the number of individuals to whom the applicant has provided such services for such fiscal year; and

"(2) the applicant agrees to submit to the Secretary a report providing—

"(A) the number of individuals to whom the applicant provides preventive health services pursuant to the grant;

"(B) epidemiological and demographic data on the population of such individuals;

"(C) the extent to which the costs of health care for such individuals are paid by third-party payors;

"(D) the average costs of providing each category of preventive health service; and

"(E) the aggregate amounts expended for each such category.

"(b) PROVISION OF OPPORTUNITIES FOR ANONYMOUS COUNSELING AND TESTING.—The Secretary may not make a grant under section 2601 unless the applicant for the grant agrees that, to the extent permitted under State law, the applicant will offer substantial opportunities for an individual—

"(1) to undergo counseling and testing pursuant to such section without being required to provide any information relating to the identity of the individual; and

"(2) to undergo such counseling and testing through the use of a pseudonym.

"(c) PROHIBITION AGAINST REQUIRING TESTING AS CONDITION OF RECEIVING OTHER HEALTH SERVICES.—The Secretary may not make a grant under section 2601 unless the applicant for the grant agrees that, with respect to an individual seeking health services from the applicant, the applicant will not require the individual to undergo testing described in such section as a condition of receiving any health services unless such testing is medically indicated in the provision of the health services sought by the individual.

"(d) INCREASED AVAILABILITY OF PREVENTIVE HEALTH SERVICES.—If an applicant for a grant under section 2601 has carried out a program of providing any preventive health service during the majority of the 180-day period preceding the fiscal year for which the applicant is first applying to receive such a grant, the Secretary may not make such a grant to the applicant for any fiscal year unless the applicant agrees to expend the grant only for the purpose of significantly increasing the availability of preventive health services provided by the applicant above the average level of availability provided under the program during such period.

"(e) LIMITATION ON IMPOSITION OF FEES FOR SERVICES.—The Secretary may not make a grant under section 2601 unless the applicant for the grant agrees that, if a charge is imposed for the provision of preventive health services under the grant, such charge—

"(1) will be made according to a schedule of charges that is made available to the public;

"(2) will be adjusted to reflect the income of the individual involved; and

"(3) will not be imposed on any individual with an income of less than 100 percent of the official poverty line, as established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

"(f) RELATIONSHIP TO ITEMS AND SERVICES UNDER OTHER PROGRAMS.—

"(1) IN GENERAL.—The Secretary may not make a grant under section 2601 unless the applicant for the grant agrees that, subject to paragraph (2), the grant will not be expended to make payment for any preventive health service to the extent that payment has been made, or can reasonably be expected to be made, with respect to such service—

"(A) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

"(B) by an entity that provides health services on a prepaid basis.

"(2) APPLICABILITY TO CERTAIN SECONDARY AGREEMENTS FOR PROVISION OF SERVICES.—An agreement made under paragraph (1) shall not apply in the case of an entity through which a grantee under section 2601 provides preventive health services pursuant to subsection (c)(3) of such section, if the Secretary has provided a waiver under subsection (d)(2) of such section regarding the entity.

"(g) ADMINISTRATION OF GRANT.—The Secretary may not make a grant under section 2601 unless the applicant for the grant agrees that—

"(1) the applicant will not expend amounts received pursuant to such section for any purpose other than the purposes described in such section;

"(2) the applicant will establish such procedures for fiscal control and fund accounting as may be necessary to ensure proper disbursement and accounting with respect to the grant; and

"(3) the applicant will not expend more than 10 percent of the grant for administrative expenses with respect to the grant.

"SEC. 2612. REQUIREMENT OF SUBMISSION OF APPLICATION CONTAINING CERTAIN AGREEMENTS AND ASSURANCES.

"The Secretary may not make a grant under section 2601 unless—

"(1) an application for the grant is submitted to the Secretary containing agreements and assurances in accordance with this part and containing the information specified in section 2611(a)(1);

"(2) with respect to such agreements, the application provides assurances of compliance satisfactory to the Secretary; and

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

**"SEC. 2613. DETERMINATION OF AMOUNT OF ALLOTMENTS FOR STATES.**

"(a) **MINIMUM ALLOTMENT.**—Subject to the extent of amounts made available in appropriations Acts, the amount of an allotment under section 2601(a) for a State for a fiscal year shall be the greater of—

"(1) \$100,000 for each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, and \$50,000 for each of the territories of the United States other than the Commonwealth of Puerto Rico; and

"(2) an amount determined under subsection (b).

"(b) **DETERMINATION UNDER FORMULA.**—The amount referred to in subsection (a)(2) is the product of—

"(1) an amount equal to the amount made available pursuant to section 2616(b)(1) for the fiscal year involved; and

"(2) a percentage equal to the quotient of—

"(A) an amount equal to the number of cases of acquired immune deficiency syndrome reported to and confirmed by the Director of the Centers for Disease Control for the State involved for the most recent fiscal year for which such data is available; divided by

"(B) an amount equal to the number of cases of acquired immune deficiency syndrome reported to and confirmed by the Director of the Centers for Disease Control for the United States for the most recent fiscal year for which such data is available.

"(c) **DISPOSITION OF CERTAIN FUNDS APPROPRIATED FOR ALLOTMENTS.**—

"(1) **IN GENERAL.**—Any amounts available pursuant to paragraph (2) shall, in accordance with paragraph (3), be allotted by the Secretary each fiscal year to States receiving payments under section 2601(a) for the fiscal year (other than any State referred to in paragraph (2)(C)). The Secretary shall make payments, as grants, to each such State from any such allotment for the State for the fiscal year involved.

"(2) **SPECIFICATION OF AMOUNTS.**—The amounts referred to in paragraph (1) are any amounts that are not paid to States under section 2601(a) as a result of—

"(A) the failure of any State to submit an application under section 2612;

"(B) the failure, in the determination of the Secretary, of any State to prepare the application in compliance with such section or to submit the application within a reasonable period of time; or

"(C) any State informing the Secretary that the State does not intend to expend the full amount of the allotment made to the State.

"(3) **AMOUNT OF ALLOTMENT.**—The amount of an allotment under paragraph (1) for a State for a fiscal year shall be an amount equal to the product of—

"(A) an amount equal to the amount available pursuant to paragraph (2) for the fiscal year involved; and

"(B) the percentage determined under subsection (b)(2) for the State.

**"SEC. 2614. PROVISION BY SECRETARY OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.**

"(a) **IN GENERAL.**—Upon the request of a grantee under section 2601, the Secretary may, subject to subsection (b), provide supplies, equipment, and services for the purpose of aiding the grantee in providing preventive health services and, for such purpose, may detail to the State any officer or employee of the Department of Health and Human Services.

"(b) **LIMITATION.**—With respect to a request described in subsection (a), the Secretary shall reduce the amount of payments under section 2601 to the grantee involved by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

**"SEC. 2615. EVALUATIONS AND REPORTS.**

"(a) **EVALUATIONS.**—The Secretary shall, directly or through grants and contracts, evaluate programs carried out with grants made under section 2601.

"(b) **REPORT TO CONGRESS.**—The Secretary shall, not later than 1 year after the date on which amounts are first appropriated pursuant to section 2616(a), and annually thereafter, submit to the Congress a report—

"(1) summarizing the reports submitted to the Secretary pursuant to section 2611(a)(2);

"(2) describing model programs for the provision of preventive health services;

"(3) recommending criteria to be used in determining the geographic areas with the most substantial need for preventive health services;

"(4) summarizing evaluations carried out pursuant to subsection (a) during the preceding fiscal year; and

"(5) making such recommendations for administrative and legislative initiatives with respect to this title as the Secretary determines to be appropriate.

**"(c) STUDY REGARDING PARTNER NOTIFICATION.—**

"(1) **IN GENERAL.**—The Secretary shall conduct a study of programs of partner notification for the purpose of determining—

"(A) in the case of individuals who have been notified under such programs regarding acquired immune deficiency syndrome, the percentage of such individuals who undergo counseling and testing regarding such syndrome;

"(B) in the case of such individuals who have undergone testing regarding such syndrome, the number of such individuals determined through the tests to be infected with the etiologic agent for such syndrome; and

"(C) the extent to which such programs have, in the case of such individuals, resulted in behavioral changes that are effective regarding the prevention of exposure to, and the transmission of, such etiologic agent.

"(2) **REPORT.**—Not later than 1 year after appropriations are first made under section 2616(a), the Secretary shall complete the study required in paragraph (1) and submit to the Congress a report describing the findings made as a result of the study.

**"SEC. 2616. FUNDING.**

"(a) **AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of making grants under subsections (a) and (b) of section 2601, there is authorized to be appropriated \$500,000,000 for each of the fiscal years 1991 through 1995.

**"(b) ALLOCATION OF FUNDS BY SECRETARY.—**

"(1) **ALLOTMENTS.**—For the purpose of making allotments under section 2601(a), the Secretary shall make available 50 percent of the amounts appropriated pursuant to subsection (a), subject to paragraph (3).

"(2) **CATEGORICAL GRANTS.**—For the purpose of making grants under section 2601(b), the Secretary shall make available 50 percent of the amounts appropriated under subsection (a), subject to paragraph (3).

"(3) **EVALUATIONS.**—For the purpose of conducting evaluations under section 2615(a), the Secretary shall make available 1 percent of the amounts appropriated under subsection (a) for a fiscal year. Amounts appropriated under such subsection shall not be subject to being made available by the Secretary under section 2711."

**"(c) USE OF FUNDS.**—Counseling programs carried out under this part—

"(1) shall not be designed to promote or encourage, directly, intravenous drug abuse or sexual activity, homosexual or heterosexual;

"(2) shall be designed to reduce exposure to and transmission of the etiologic agent for acquired immune deficiency syndrome by providing accurate information; and

"(3) shall provide information on the health risks of promiscuous sexual activity and intravenous drug abuse."

## **TITLE II—EMERGENCY RELIEF FOR AREAS WITH SUBSTANTIAL NEED FOR SERVICES**

**SEC. 201. ESTABLISHMENT OF PROGRAM OF GRANTS.**

Title XXVI of the Public Health Service Act, as added by section 101(3) of this Act, is amended by adding at the end the following new part:

**"Part B—Emergency Relief for Areas With Substantial Need for Services**

**"SEC. 2621. ESTABLISHMENT OF PROGRAM OF GRANTS.**

**"(a) ESTABLISHMENT.—**

"(1) **ELIGIBLE GEOGRAPHIC AREAS.**—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall, subject to paragraph (2), make grants in accordance with section 2623 for the purpose of

assisting in the provision of the services specified in subsection (c) in any metropolitan statistical area for which, as of June 30, 1990, in the case of grants for fiscal year 1991, and as of March 31 of the most recent fiscal year for which such data is available in the case of a grant for any subsequent fiscal year—

“(A) there has been reported to the Director of the Centers for Disease Control a cumulative total of more than 2,000 cases of acquired immune deficiency syndrome; or

“(B) the per capita incidence of cumulative cases of such syndrome (computed on the basis of the most recently available data on the population of the geographic area) is not less than 0.0025.

“(2) REQUIREMENT REGARDING CONFIRMATION OF CASES.—The Secretary may not make a grant under paragraph (1) for a metropolitan statistical area unless, before making any payments under the grant, the cases of acquired immune deficiency syndrome reported for purposes of such paragraph have been confirmed by the Secretary, acting through the Director of the Centers for Disease Control.

“(b) DESIGNATION OF POLITICAL SUBDIVISION TO RECEIVE GRANT.—The Secretary may make grants under subsection (a) only to the chief elected official of the city, urban county, or other political subdivision that administers the public health agency serving the greatest proportion of cases of acquired immune deficiency syndrome in the eligible geographic area involved, as indicated by the number of such cases reported to the Director of the Centers for Disease Control.

“(c) SPECIFICATION OF HEALTH AND OTHER COMMUNITY-BASED SERVICES.—The services referred to in subsection (a) are community-based services—

“(1) to enhance the quality of outpatient and ambulatory care services provided to low-income individuals and families with HIV disease;

“(2) to deliver outpatient and ambulatory care services including case management to such individuals and families, including comprehensive treatment and support services;

“(3) to prevent unnecessary inpatient hospitalization; and

“(4) to expedite the provision of services to individuals in the most medically appropriate level of service.

“(d) PROVISIONS REGARDING SERVICE PROVIDERS.—

“(1) CERTAIN MINIMUM QUALIFICATIONS.—The Secretary may not make a grant under subsection (a) unless the political subdivision involved agrees that, in expending the grant, the services specified in subsection (c) will be provided only through public or nonprofit private clinics, sub-acute care facilities, community health centers, community mental health centers, hospices, ambulatory care facilities, or other public or nonprofit private entities, that—

“(A) provide health care to a disproportionate share of low-income individuals and families with HIV disease; and

“(B) incur uncompensated costs in providing health care to such individuals and families.

“(2) REQUIREMENT OF STATUS AS MEDICAID PROVIDER.—

“(A) Subject to subparagraph (B), the Secretary may not make a grant under subsection (a) for the provision of health services under subsection (c) in a State unless, in the case of any such service that is available pursuant to the State plan approved under title XIX of the Social Security Act for the State—

“(i) the political subdivision involved will provide the health service directly, and the political subdivision has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

“(ii) the political subdivision has entered into an agreement with a public or nonprofit private entity under which the entity will provide the health service, and the entity has entered into such a participation agreement and is qualified to receive such payments.

“(B)(i) In the case of an entity making an agreement pursuant to subparagraph (A)(ii) regarding the provision of health services, the requirement established in such subparagraph shall be waived by the Secretary if the entity does not, in providing health care services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

“(ii) A determination by the Secretary of whether an entity referred to in clause (i) meets the criteria for a waiver under such clause shall be made

without regard to whether the entity accepts voluntary donations regarding the provision of services to the public.

"(3) **PRIORITIES.**—The Secretary may not make a grant under subsection (a) unless the political subdivision involved agrees that, with respect to health care providers described in paragraph (1), the political subdivision will give priority to providing the services specified in subsection (c) through such providers that—

"(A) have established, and agree to implement, a plan to evaluate the utilization of services provided in the care of individuals and families with HIV disease; and

"(B) have established a system designed to ensure that such individuals and families are referred to the most medically appropriate level of care as soon as such referral is medically indicated.

"(e) **DEFINITIONS.**—For purposes of this part:

"(1) The term 'eligible geographic area' means a metropolitan statistical area described in subsection (a)(1).

"(2) The term 'metropolitan statistical area' means such areas as specified by the Secretary.

**"SEC. 2622. ADMINISTRATION OF GRANTS.**

"(a) **IN GENERAL.**—To receive a grant under section 2621(a), the administering local political subdivision shall, subject to subparagraph (B)—

"(1) establish, through intergovernmental agreement with the chief elected officials of all local political subdivisions that have in excess of 10 percent of all individuals with acquired immune deficiency syndrome, as reported to the Centers for Disease Control, in such subdivision within the eligible geographic area, an administrative mechanism to allocate funds and services based on the proportion of cases of such syndrome and severity of need of such subdivisions; and

"(2) establish a council in accordance with subsection (c).

"(b) **PRIORITIES IN ALLOCATION OF FUNDS.**—Allocation of funds and services under subsection (a) for an eligible geographic area shall be made in accordance with the priorities established, pursuant to subsection (c)(2) of subsection (b), by the council that serves the eligible geographic area pursuant to such subsection.

"(c) **HIV HEALTH SERVICES PLANNING COUNCIL.**—

"(1) **IN GENERAL.**—To be eligible for assistance under this part, the chief elected official described in subsection (a)(1) shall agree to provide for an HIV health services planning council not later than 30 days after the date on which such assistance is first received by the official. Such a council shall include representatives of—

"(A) health care service providers;

"(B) community-based service organizations;

"(C) social service providers;

"(D) mental health providers;

"(E) local public health agencies;

"(F) hospital planning agencies or health care planning agencies;

"(G) affected communities;

"(H) community leaders;

"(I) State government;

"(J) grantees under section 2601; and

"(K) individuals who are infected with the human immunodeficiency virus.

"(2) **DUTIES.**—The planning council provided for under paragraph (1) shall—

"(A) develop a comprehensive plan for the organization and delivery of services described in section 2621(c) that is compatible with any existing State or local plan regarding the provision of health services to individuals with HIV disease;

"(B) establish priorities for the allocation of funds within the eligible geographic area; and

"(C) assess the efficiency of the administrative mechanism in rapidly allocating funds to the areas of greatest need within the eligible geographic area.

"(3) **METHOD OF PROVIDING FOR COUNCIL.**—

"(A) **IN GENERAL.**—In providing for a council for purposes of paragraph (1), a chief elected official receiving a grant under section 2621(a) may establish the council directly or designate an existing entity to serve as the council.

"(B) CONSIDERATION REGARDING DESIGNATION OF COUNCIL.—In making a determination of whether to establish or designate a council under subparagraph (A), a chief elected official receiving a grant under section 2621(a) shall consider whether the purpose of the council can most effectively be carried out by designating as the council an existing entity that has demonstrated experience in assessing and planning, within the eligible geographic area, health care service needs regarding acquired immune deficiency syndrome.

"(C) PRIORITY IN DESIGNATIONS.—If a chief elected official receiving a grant under section 2621(a) makes a determination that, in providing for a council under paragraph (1), an existing entity should be designated to serve as the council, the chief elected official shall give priority to designating an entity described in subparagraph (B).

"(d) ADMINISTRATION AND PLANNING.—Not to exceed 5 percent of amounts received under a grant awarded under section 2621(a) may be utilized for the administration of the grant.

"SEC. 2623. TYPE AND DISTRIBUTION OF GRANTS.

"(a) GRANTS BASED ON RELATIVE NEED OF AREA.—

"(1) IN GENERAL.—In carrying out section 2621(a), the Secretary shall make a grant for each eligible geographic area for which an application under section 2624(a) has been approved. Each such grant shall be made in an amount determined in accordance with paragraph (3).

"(2) EXPENDITURES OF APPROPRIATIONS.—Of the amounts appropriated under section 2625 for a fiscal year, the Secretary shall reserve 50 percent for making grants pursuant to paragraph (1). Not later than 90 days after the date on which appropriations under such section are made for a fiscal year, the Secretary shall obligate all of the amounts so reserved.

"(3) AMOUNT OF GRANT.—

"(A) IN GENERAL.—Subject to the extent of amounts made available in appropriations Acts, a grant made pursuant to paragraph (1) for an eligible geographic area shall be made in an amount equal to the sum of—

"(i) an amount determined in accordance with subparagraph (B); and  
 "(ii) an amount determined in accordance with subparagraph (C).

"(B) AMOUNT RELATING TO CUMULATIVE NUMBER OF CASES.—The amount referred to in clause (i) of subparagraph (A) is an amount equal to the product of—

"(i) an amount equal to 75 percent of the amounts reserved under paragraph (2) for the fiscal year involved; and

"(ii) a percentage equal to the quotient of—

"(I) the cumulative number of cases of acquired immune deficiency syndrome in the eligible geographic area involved, as indicated by the number of such cases reported to the Director of the Centers for Disease Control; divided by

"(II) the sum of the cumulative number of such cases in all eligible geographic areas for which an application for a grant under paragraph (1) has been approved.

"(C) AMOUNT RELATING TO PER CAPITA INCIDENCE OF CASES.—The amount referred to in clause (ii) of subparagraph (A) is an amount equal to the product of—

"(i) an amount equal to 25 percent of the amounts reserved under paragraph (2) for the fiscal year involved; and

"(ii) a percentage developed by the Secretary through consideration of the ratio of—

"(I) the per capita incidence of cumulative cases of acquired immune deficiency syndrome in the eligible geographic area involved (computed on the basis of the most recently available data on the population of the geographic area); to

"(II) the per capita incidence of such cumulative cases in all eligible geographic areas for which an application for a grant under paragraph (1) has been approved (computed on the basis of the most recently available data on the population of such geographic areas).

"(b) SUPPLEMENTAL GRANTS.—

"(1) IN GENERAL.—Not later than 150 days after the date on which appropriations are made under section 2625 for a fiscal year, the Secretary shall obligate 50 percent of the amounts appropriated under such section for the fiscal year

for the purpose of making grants under section 2621(a) to eligible geographic areas whose application under section 2624(c)—

“(A) contains a report concerning the dissemination of emergency relief funds under subsection (a) and the plan for utilization of such funds;

“(B) demonstrates the severe need in such area for supplemental financial assistance to combat the HIV epidemic;

“(C) demonstrates the commitment of the local resources of the area, both financial and in-kind, to combating the HIV epidemic;

“(D) demonstrates the ability of the area to utilize such supplemental financial resources in a way that is immediately responsive and cost effective; and

“(E) demonstrates that resources will be allocated in accordance with the local demographic incidence of AIDS including funds for services for infants, children, women, and families with HIV disease.

“(2) AMOUNT OF GRANT.—The amount of each grant made by the Secretary under paragraph (1) shall be determined by the Secretary based on the application submitted by the eligible geographic area.

#### “SEC. 2624. APPLICATION.

“(a) IN GENERAL.—To be eligible to receive a grant under section 2621, an eligible geographic area shall prepare and submit to the Secretary an application in such form, and containing such information as the Secretary shall require, including assurances adequate to ensure—

“(1) that, if the applicant for the grant has carried out a program of providing any health service regarding acquired immune deficiency syndrome during the majority of the 180-day period preceding the fiscal year for which the applicant is first applying to receive such a grant, the applicant will, for each fiscal year for which such a grant is made to the applicant, expend the grant only for the purpose of significantly increasing the availability of such services provided by the applicant above the average level of availability provided under the program during such period; and

“(2) that agencies and institutions within the eligible geographic area that will receive funds under a grant provided under this part shall be participants in an established HIV community-based continuum of care.

“(b) DATE CERTAIN FOR SUBMISSION.—To be eligible to receive a grant under section 2621(a) for a fiscal year, an application under subsection (a) shall be submitted not later than 45 days after the date on which appropriations are made under section 2625 for the fiscal year.

“(c) ADDITIONAL APPLICATION.—An eligible geographic area that desires to receive a grant under section 2623(b) shall prepare and submit, to the Secretary, an additional application at such time, in such form, and containing such information as the Secretary shall require, including the information required under such subsection.

#### “SEC. 2625. AUTHORIZATION OF APPROPRIATIONS.

“For the purpose of making grants under section 2621(a), there are authorized to be appropriated \$300,000,000 for each of the fiscal years 1991 and 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995.”

## TITLE III—EMERGENCY RESPONSE EMPLOYEES

#### SEC. 301. ESTABLISHMENT OF PROGRAM.

Title XXVI of the Public Health Service Act, as amended by section 201 of this Act, is amended by adding at the end the following new part:

#### “PART C—EMERGENCY RESPONSE EMPLOYEES

##### “Subpart I—Guidelines and Model Curriculum

#### “SEC. 2631. GRANTS FOR IMPLEMENTATION.

“(a) IN GENERAL.—With respect to the recommendations contained in the guidelines and the model curriculum developed under section 253 of Public Law 100-607, the Secretary shall make grants to States and political subdivisions of States for the purpose of assisting grantees regarding the initial implementation of such portions of the recommendations as are applicable to emergency response employees.

"(b) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated \$5,000,000 for each of the fiscal years 1991 through 1995.

**"Subpart II—Notifications of Possible Exposure Regarding Acquired Immune Deficiency Syndrome and Other Infectious Diseases**

**"SEC. 2641. ESTABLISHMENT OF REQUIREMENT OF NOTIFICATIONS WITH RESPECT TO VICTIMS ASSISTED.**

**"(a) ROUTINE NOTIFICATION OF DESIGNATED OFFICER.—**

"(1) DETERMINATION BY TREATING FACILITY.—If a victim of an emergency is transported by emergency response employees to a medical facility and the medical facility makes a determination that the victim has an infectious disease, the medical facility shall, with respect to the determination, notify the designated officer of the emergency response employees who transported the victim to the medical facility.

"(2) DETERMINATION BY FACILITY ASCERTAINING CAUSE OF DEATH.—If a victim of an emergency is transported by emergency response employees to a medical facility and the victim dies at or before reaching the medical facility, the medical facility ascertaining the cause of the death of the victim shall, with respect to the designated officer of the emergency response employees who transported the victim to the initial medical facility, notify the designated officer of any determination by the medical facility that the victim had an infectious disease.

"(3) REQUIREMENT OF PROMPT NOTIFICATIONS.— With respect to a determination described in paragraph (1) or (2), the notification required in each of such paragraphs shall be made as soon as is practicable, but not later than 48 hours, after the determination is made.

**"(b) NOTIFICATION UPON REQUEST OF DESIGNATED OFFICER.—**

"(1) DETERMINATION BY TREATING FACILITY.—If a victim of an emergency is transported by emergency response employees to a medical facility, the medical facility shall, upon the request of the designated officer of any emergency response employees who attended, treated, assisted, or transported the victim, notify the designated officer of any determination by the medical facility that the victim has an infectious disease.

"(2) DETERMINATION BY FACILITY ASCERTAINING CAUSE OF DEATH.—If a victim of an emergency is transported by emergency response employees to a medical facility and the victim dies at or before reaching the medical facility, the medical facility ascertaining the cause of the death of the victim shall, upon the request of the designated officer of any emergency response employees who attended, treated, assisted, or transported the victim, notify the designated officer of any determination by the medical facility that the victim had an infectious disease.

**"(3) REQUIREMENT OF PROMPT NOTIFICATION.—**

"(A) A medical facility shall make a notification required in paragraph (1) or (2) as soon as is practicable, but not later than 48 hours, after receipt of a request pursuant to the paragraph involved if, prior to the request, a determination described in such paragraph has been made by the medical facility.

"(B) A medical facility shall make a notification required in paragraph (1) or (2) as soon as is practicable, but not later than 48 hours, after making a determination described in the paragraph involved if, after receipt of a request pursuant to such paragraph, the determination is made.

**"(c) PROCEDURES FOR NOTIFICATION OF DESIGNATED OFFICER.—**

"(1) CONTENTS OF NOTIFICATION TO OFFICER.—In making a notification required under subsection (a) or (b), a medical facility shall provide the date and, to the extent practicable, the time on which the victim of the emergency involved was transported by emergency response employees to a medical facility.

"(2) MANNER OF NOTIFICATION.—If a notification under subsection (a) or (b) is mailed or otherwise indirectly made—

"(A) the medical facility sending the notification shall, upon sending the notification, inform the designated officer to whom the notification is sent of the fact that the notification has been sent; and

"(B) such designated officer shall, not later than 10 days after being informed by the medical facility that the notification has been sent, inform such medical facility whether the designated officer has received the notification.

**"(d) DESIGNATION OF INDIVIDUALS TO REQUEST AND RECEIVE NOTIFICATIONS FROM MEDICAL FACILITIES.—**

"(1) **IN GENERAL.**—The public health officer of each State shall, for the purpose of requesting and receiving notifications under subsections (a) and (b), and for the purpose of carrying out subsection (e), designate 1 official or officer of each employer of emergency response employees in the State.

"(2) **PREFERENCE IN MAKING DESIGNATIONS.**—In making the designations required in paragraph (1), a public health officer shall give preference to individuals who are trained in the provision of health care or in the control of infectious diseases.

**"(e) NOTIFICATION OF EMPLOYEE.—**

"(1) **ROUTINE NOTIFICATION OF EMPLOYEE.**—After receiving a notification under subsection (a) or (b), a designated officer of emergency response employees shall, to the extent practicable, immediately notify each of such employees who—

"(A) responded to the emergency involved; and

"(B) as indicated by guidelines developed by the Secretary, may have been exposed to an infectious disease.

"(2) **NOTIFICATION UPON REQUEST OF EMPLOYEE.**—A designated officer of emergency response employees shall, upon request of such an employee—

"(A) determine whether, if a victim of an emergency to which the employee responded had an infectious disease, the employee might have been exposed to the disease, as indicated by guidelines developed by the Secretary; and

"(B) make a request described in subsection (b) if, as indicated by a determination made pursuant to subparagraph (A), the employee might have been exposed to the disease.

"(3) **CONTENTS OF NOTIFICATION TO EMPLOYEE.**—A notification under this subsection to an emergency response employee shall inform the employee of—

"(A) the fact that the employee may have been exposed to an infectious disease and the name of the disease involved;

"(B) any action by the employee that, as indicated by guidelines developed by the Secretary, is medically appropriate; and

"(C) if medically appropriate under such criteria, the date and time of such emergency.

"(f) **LIMITATION.**—Subsections (a)(1) and (b)(1) shall not apply to any determination described in such subsections made with respect to a victim of an emergency after the expiration of the 60-day period beginning on the date that the victim is transported by emergency response employees to a medical facility.

**"SEC. 2642. RULES OF CONSTRUCTION.**

"(a) **TESTING.**—Section 2641 may not, with respect to victims of emergencies, be construed to authorize or require a medical facility to test any such victim for any infectious disease.

"(b) **CONFIDENTIALITY.**—Section 2641 may not be construed to authorize or require any medical facility, any designated officer of emergency response employees, or any such employee, to disclose identifying information with respect to a victim of an emergency or with respect to an emergency response employee.

"(c) **FAILURE TO PROVIDE EMERGENCY SERVICES.**—Section 2641 may not be construed to authorize any emergency response employee to fail to respond, or to deny services, to any victim of an emergency.

**"SEC. 2643. INJUNCTIONS REGARDING VIOLATION OF PROHIBITION.**

"(a) **IN GENERAL.**—The Secretary may, in any court of competent jurisdiction, commence a civil action for the purpose of obtaining temporary or permanent injunctive relief with respect to preventing a violation of section 2641.

"(b) **FACILITATION OF INFORMATION ON VIOLATIONS.**—The Secretary shall establish an administrative process for encouraging emergency response employees to provide information to the Secretary regarding violations of section 2641. As appropriate, the Secretary shall investigate alleged such violations and seek appropriate injunctive relief."

## TITLE IV—CERTAIN HEALTH CARE SERVICES

### SEC. 401. GRANTS FOR PROVISION OF CERTAIN SERVICES.

Title XXVI of the Public Health Service Act, as amended by section 301 of this Act, is amended by adding at the end the following new part:

#### "PART D—CERTAIN HEALTH CARE SERVICES

### "SEC. 2651. GRANTS FOR DEMONSTRATION PROJECTS FOR COMPREHENSIVE TREATMENT SERVICES.

"(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to public and nonprofit entities for the purpose of providing for demonstration projects to provide comprehensive treatment services for individuals infected with the etiologic agent for acquired immune deficiency syndrome.

(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out subsection (a), there are authorized to be appropriated \$30,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.

### "SEC. 2652. GRANTS TO STATES FOR PROVISION OF DRUGS FOR TREATMENT.

"(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to States for the purpose of assisting States—

"(1) in purchasing drugs approved by the Commissioner of Food and Drugs for use in the treatment of cases of infection with the etiologic agent for acquired immune deficiency syndrome (including treating and preventing conditions arising from such infection); and

"(2) in distributing such drugs as medically appropriate to indigent individuals in need of the drugs who have no other means by which to acquire the drugs.

"(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out subsection (a), there are authorized to be appropriated \$30,000,000 for each of the fiscal years 1991 through 1995.

### "SEC. 2653. DEMONSTRATION GRANTS FOR RESEARCH AND SERVICES FOR PEDIATRIC PATIENTS REGARDING ACQUIRED IMMUNE DEFICIENCY SYNDROME.

"(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration and the Director of the National Institutes of Health, shall make demonstration grants to community health centers, and other appropriate public or nonprofit private entities that provide primary health care to the public, for the purpose of—

"(1) conducting, at the health facilities of such entities, clinical research on therapies for pediatric patients infected with the etiologic agent for acquired immune deficiency syndrome; and

"(2) with respect to the pediatric patients who participate in such research, providing health care on an outpatient basis to such patients and the families of such patients.

"(b) MINIMUM QUALIFICATIONS OF GRANTEES.—The Secretary may not make a grant under subsection (a) unless the health facility operated by the applicant for the grant serves a significant number of pediatric patients and pregnant women infected with the etiologic agent for acquired immune deficiency syndrome.

#### "(c) COOPERATION WITH BIOMEDICAL INSTITUTIONS.—

"(1) DESIGN OF RESEARCH PROTOCOL.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant—

"(A) has entered into a cooperative agreement or contract with an appropriately qualified entity with expertise in biomedical research under which the entity will assist the applicant in designing and conducting a protocol for the research to be conducted pursuant to the grant; and

"(B) agrees to provide the clinical data developed in the research to the Director of the National Institutes of Health.

"(2) ANALYSIS AND EVALUATION.—The Secretary, acting through the Director of the National Institutes of Health—

"(A) may assist grantees under subsection (a) in designing and conducting protocols described in subparagraph (A) of paragraph (1); and

"(B) shall analyze and evaluate the data submitted to the Director pursuant to subparagraph (B) of such paragraph.

"(d) CASE MANAGEMENT.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees to provide for the case management of the pediatric patient involved and the family of the patient.

"(e) REFERRALS FOR ADDITIONAL SERVICES.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees to provide for the pediatric patient involved and the family of the patient—

"(1) referrals for inpatient hospital services, treatment for substance abuse, and mental health services; and

"(2) referrals for other social and support services, as appropriate.

"(f) INCIDENTAL SERVICES.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees to provide the family of the pediatric patient involved with such transportation, child care, and other incidental services as may be necessary to enable the pediatric patient and the family of the patient to participate in the program established by the applicant pursuant to such subsection.

"(g) APPLICATION.—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(h) EVALUATIONS.—The Secretary shall, directly or through contracts with public and private entities, provide for evaluations of programs carried out pursuant to subsection (a).

"(i) DEFINITION.—For purposes of this section, the term 'community health center' has the meaning given such term in section 330(a).

"(j) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated \$20,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995."

## TITLE V—CERTAIN DEFINITIONS

### SEC. 501. DEFINITIONS FOR TITLE XXVI OF PUBLIC HEALTH SERVICE ACT.

Title XXVI of the Public Health Service Act, as amended by section 401 of this Act, is amended by adding at the end the following new part:

#### "PART E—GENERAL PROVISIONS

##### "SEC. 2661. DEFINITIONS.

"For purposes of this title:

"(1) The term 'counseling with respect to acquired immune deficiency syndrome' means such counseling provided by an individual trained to provide such counseling.

"(2) The term 'designated officer of emergency response employees' means an individual designated under section 2641(d) by the public health officer of the State involved.

"(3) The term 'emergency' means an emergency involving injury or illness.

"(4) The term 'emergency response employees' means firefighters, law enforcement officers, paramedics, emergency medical technicians, and other individuals (including employees of legally organized and recognized volunteer organizations, without regard to whether such employees receive nominal compensation) who, in the course of professional duties, respond to emergencies in the geographic area involved.

"(5) The term 'employer of emergency response employees' means an organization that, in the course of professional duties, responds to emergencies in the geographic area involved.

"(6) The term 'exposed', with respect to acquired immune deficiency syndrome or any other infectious disease, means to be in circumstances in which there is a significant risk of becoming infected with the etiologic agent for the disease involved.

"(7) The term 'infection with the etiologic agent for acquired immune deficiency syndrome' includes any condition arising from such etiologic agent.

"(8) The term 'infectious disease' means hepatitis B, hepatitis non-A/non-B, pulmonary tuberculosis, meningococcal meningitis, rubella, infection with the etiologic agent for acquired immune deficiency syndrome, and any other disease designated, in accordance with guidelines issued by the Secretary, as an infectious disease for purposes of part C.

"(9) The term 'person' includes one or more individuals, governments (including the Federal Government and the governments of the States), governmental agencies, political subdivisions, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, receivers, trustees, and trustees in cases under title 11, United States Code.

"(10) The term 'preventive health services' means the services specified in section 2601(c)(2).

"(11) The term 'State' means each of the several States, the District of Columbia, and the territories of the United States.

"(12) The term 'territories of the United States' means each of the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

"(13) The term 'testing for infection with the etiologic agent for acquired immune deficiency syndrome' includes any diagnosis of such infection made by a health care provider licensed to make such a diagnosis under the law of the State in which the diagnosis is made."

## TITLE VI—GENERAL PROVISIONS

### SEC. 601. STUDY REGARDING ACQUIRED IMMUNE DEFICIENCY SYNDROME IN RURAL AREAS.

(a) IN GENERAL.—The Secretary of Health and Human Services, after consultation with the Director of the Office of Rural Health Policy, shall—

(1) conduct a study for the purpose of estimating the incidence and prevalence in rural areas of cases of acquired immune deficiency syndrome and cases of infection with the etiologic agent for such syndrome; and

(2) in carrying out the study, determine the adequacy in rural areas of services for diagnosing such cases and providing treatment for such cases that are in the early stages of infection.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall complete the study required in subsection (a) and submit to the Congress a report describing the findings made as a result of the study.

### SEC. 602. TECHNICAL AND CONFORMING AMENDMENTS.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended—

(1) in section 406(a)(2), by striking "2101" and inserting "2701";

(2) in section 465(f), by striking "2601" and inserting "2701";

(3) in section 480(a)(2), by striking "2101" and inserting "2701";

(4) in section 485(a)(2), by striking "2101" and inserting "2701";

(5) in section 497, by striking "2601" and inserting "2701"; and

(6) in section 505(a)(2), by striking "2101" and inserting "2701"; and

(7) in section 926(b) (as added by section 6103(c)(1) of Public Law 101-239), by striking "2611" each place such term appears and inserting "2711".

### SEC. 603. EFFECTIVE DATES.

Part C of title XXVI of the Public Health Service Act (as added by section 301 of this Act) shall take effect on the expiration of the 60-day period beginning on the date of the enactment of this Act. Such title shall otherwise take effect October 1, 1990, or upon the date of the enactment of this Act, whichever occurs later.

## PURPOSE AND SUMMARY

The legislation is to authorize grants for the provision of a continuum of preventive health services with respect to acquired immune deficiency syndrome (AIDS). Such services include counseling and testing, diagnostic evaluation of those persons found to be infected, and the provision of therapeutic drugs for those persons for whom such intervention is medically indicated. The legislation is to authorize the provision of emergency assistance grants to cities that have had a large number of AIDS cases. The legislation creates a program to notify emergency response employees of exposure to infectious diseases. In addition, the legislation is to author-

ize demonstration projects for the development of clinical treatments for children with AIDS, demonstration projects for the development of model treatment programs, and grants to States for assistance in the provision of therapies. Finally, the legislation requires a study of the incidence and prevalence of AIDS in rural America, as well as the adequacy of services in such areas.

## BACKGROUND AND NEED FOR THE LEGISLATION

### BACKGROUND

#### *AIDS in general*

In June of 1981, the first cases of an unusual outbreak of *Pneumocystis carinii* pneumonia were reported. Soon thereafter, additional cases of pneumonia and other unusual infections and cancers were noted. By the end of 1982, almost a thousand cases of what was by then known as Acquired Immune Deficiency Syndrome (AIDS) had been reported to and confirmed by the Centers for Disease Control (CDC). By 1987, all States had confirmed at least one case of the disease. By April of this year, more than 132,000 cases of AIDS had been reported and confirmed by CDC.

AIDS is a severe collapse of the body's natural abilities to fight off infection. AIDS is the final stage of the disease believed to be caused by infection with the Human Immunodeficiency Virus (HIV). While AIDS is the most well-known and well-studied stage of illness, it is part of a spectrum of progressively more serious illnesses now believed to result from HIV. Generally, people do not die of HIV infection or the immune deficiency itself, but rather of the so-called opportunistic infections and conditions that arise as the immune system is destroyed by HIV infection.

In order to classify a patient as a true case of AIDS, the Centers for Disease Control require that the person be both HIV-infected *and* have one or more of the opportunistic infections and conditions recognized to be associated with HIV. While there are more than two dozen such infections and conditions, the most common is a specific pneumonia (*Pneumocystis Carinii* pneumonia, or PCP) which occurs in more than 60 percent of all AIDS cases in the U.S. Other diseases include a specific skin cancer (Kaposi's Sarcoma, or KS), specific forms of meningitis, specific bacterial infections, and specific fungal infections.

#### *Stages of illness—Asymptomatic, ARC, AIDS*

The spectrum of illnesses caused by HIV infection is only now coming to be understood with any clarity. The taxonomy of this growing understanding is imprecise. Generally, a person who is HIV-infected and has no symptoms of illness is said to be "asymptomatic." A person who is HIV-infected and has some symptoms (such as swollen lymph nodes, fatigue, or diseases that are sometimes associated with HIV and sometimes not (such as tuberculosis or salmonellosis)) is said to have "AIDS-related Complex," or "ARC." A person who is HIV-infected and has one or more of the recognized opportunistic infections or conditions is said to have "CDC-defined AIDS" or "full AIDS."

Thus a person infected with HIV may be asymptomatic, have ARC, or have AIDS. Recent research has shown that these states of illness are highly correlated with measurements of the immune system function and of virus activity. As HIV becomes more active in the body, the immune system deteriorates; as this deterioration occurs, the number of symptoms increases. This may happen gradually or suddenly. Recent studies suggest that the average time from infection with HIV to the development of full AIDS is eight to ten years; the average time from the development of full AIDS to death is one to two years if patients are treated and less than a year if untreated.

Recently it has been recognized that a principal measure of the healthiness of the immune system is the level of specialized immune cells in the blood (called T-cells or CD4 cells). The normal range of T-cells is 800-1200 per milliliter of blood. A person who is HIV-negative is likely to have a T-cell count of 800-1200. A person who has AIDS is likely to have a T-cell count of 200 or below. A person who is asymptomatic or who has ARC is likely to have a T-cell count between 200 and the normal range, with lower counts usually being correlated with increasingly poor health and an increasing likelihood of opportunistic infections.

T-cell counts are not an absolute measure of the degree of illness. A person may be asymptomatic with a T-cell count of only 20. A person may have CDC-defined AIDS with a T-cell count of 500 (Both are, however, rare.) Treatment decisions are usually made on the basis of both T-cells counts and overall health.

In October 1989, the CDC convened a working group to estimate the incidence and prevalence of HIV infection in the U.S. and to assess the spectrum of illnesses in those Americans who are infected. That group estimated that there were currently approximately one million infected Americans. Of those one million people, more than half were estimated to have T-cell counts below 500. Of those 500,000 Americans with compromised immune systems, approximately 200,000 people were estimated to have T-cell counts below 200—a state of immune deterioration at which the risk of pneumonia is high.

### *Treatment and early intervention*

The most dramatic clinical research breakthroughs of the last several years have been made in the development of drugs to prevent or forestall the immune deterioration in infected persons and to prevent the development of opportunistic infections.

For three years, AZT (azidothymidine) has been approved as an antiviral drug for the treatment of people with CDC-defined AIDS and for people with T-cell counts below 200. With AZT in general use among these patients, the median lifespan from time of diagnosis with full AIDS until death has lengthened from 10 months to 18 months. The median lifespan of persons with AIDS without access to AZT treatment has not changed.

In August 1988, NIH announced that AZT is also effective in postponing the deterioration of the immune system in persons who are HIV-infected and have T-cell counts below 500. This preventive use of AZT is known as "Early Intervention." NIH trials have shown that Early Intervention with AZT can significantly postpone

the development of symptoms and of full AIDS. The FDA has recently approved the use of AZT for this purpose.

Other drugs (notably injected pentamidine and sulfa drugs) have been used for many years to treat AIDS-related pneumonia. Less than a year ago, an aerosol version of pentamidine (administered much like an asthma drug) was approved both to prevent pneumonia in patients with low T-cell counts who have never had pneumonia and to prevent relapse in those who have had an episode of pneumonia already. Aerosol pentamidine or oral sulfa drugs are recommended for people who are HIV-infected and have a T-cell count below 200. These treatments are also referred to as "Early Intervention" or as "Pneumonia Prophylaxis." It has been demonstrated that such Early Intervention can significantly reduce the risk of pneumonia in immunocompromised individuals.

Other drugs are now being developed for the prevention of other opportunistic infections, most notably anti-fungal drugs for the prevention of meningitis. As more drugs are developed, it is hoped that the life expectancy of patients will lengthen, that diseases associated with HIV infection can be prevented or treated early, and that associated hospital costs will decline.

#### NEED FOR LEGISLATION

##### *Preventive health services*

With the provision of counseling, testing, diagnostics, and Early Intervention therapeutic drugs, it is now possible to prevent HIV infection among uninfected Americans and to prevent illness among those Americans already infected. The legislation arises from a basic concern that these AIDS preventive health services are poorly funded, unevenly available, and often disjointed one from another.

Recommendations have been issued by the U.S. Public Health Service regarding the need for increased counseling and testing services to prevent the spread of the epidemic, but such recommendations have been issued without funding for their implementation, leaving health clinics with the choice of implementing these AIDS guidelines or continuing to provide the health care services that are the primary mission of the clinic. The result has often been both inadequate availability of AIDS services and the erosion of such necessary programs as tuberculosis control, the treatment of sexually transmitted diseases, and the provision of primary care to the poor.

Moreover, and equally disturbing, there has been inadequate assistance for States, local governments, and community-based organizations to follow up HIV counseling and testing with the diagnostic tests and preventive treatments that are necessary for such Early Intervention efforts to succeed in preventing illness among those people already infected. The development of such disjointed programs has often resulted in the separation of administration and funding for counseling and testing from the delivery of other Early Intervention services. This has left health professionals unable to coordinate and finance such care and patients with real barriers to access to it.

The need for overall coordination and financing makes it clear that any effects to provide counseling, testing, and Early Intervention require increased Federal efforts. Equally clearly, it is appropriate for the Federal government to take a leadership role in ensuring that individuals who are tested are adequately counseled, receive appropriate follow-up diagnostic services, and initiate appropriate preventive and Early Intervention treatments. Such activities can be expected to result in a slowing of the epidemic, decreased hospitalization from preventable pneumonia or other conditions, and increased life expectancy for hundreds of thousands of Americans.

### *Emergency relief*

In addition to these targeted public health efforts, it is also clear that Federal assistance is needed in those metropolitan areas hardest hit by the AIDS epidemic. However successful Early Intervention may be, it is clear that hundreds of thousands of Americans will develop acute AIDS during the next few years. At a time of drug abuse, homelessness, and poverty are rising, few American cities are adequately prepared to deal with the increasing health and social and support services needed by people with AIDS, particularly those cities that have a disproportionate number of cases of AIDS. Federal emergency relief is needed to assist those cities in addressing these service needs.

The CDC estimates that the number of persons living with AIDS will grow by 50 to 100 percent by 1993 and that the annual number of deaths from AIDS will grow at the same rate. Cities with strained public health and social service programs will be unable to keep up with these increased demands without some direct Federal assistance.

Particularly needed are programs to allow people with AIDS to receive sufficient health care and ancillary support services so that they need not be hospitalized. Although community care is universally recognized to be preferable to institutionalization for most people with AIDS, few such programs are adequate to meet the growing number of cases. The result is often fiscally wasteful, inhumane, unnecessary hospitalization. Many people are admitted for basic services that could be better delivered on an outpatient basis. Others are kept in hospitals only because they have no place to go for programs of follow-up care.

### HEARINGS

The Committee's Subcommittee on Health and the Environment held eight days of hearings on AIDS health services in the 100th Congress and one day of legislative hearings on H.R. 4470 on April 19, 1990. Testimony at that hearing was received from 15 witnesses, including two Members of Congress.

### COMMITTEE CONSIDERATION

On May 3, 1990, the Subcommittee on Health and the Environment met in open session and ordered reported the bill H.R. 4470, as amended, as a clean bill by a voice vote, a quorum being present. On May 15, the Committee met in open session and or-

dered reported the bill H.R. 4785 with amendment by voice vote, a quorum being present.

#### COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the Subcommittee held oversight hearings and made findings that are reflected in the legislative report.

#### COMMITTEE ON GOVERNMENT OPERATIONS

Pursuant to clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, no oversight findings have been submitted to the Committee by the Committee on Government Operations.

#### COMMITTEE COST ESTIMATE

In compliance with clause 7(a) of rule XIII of the Rules of the House of Representatives, the Committee believes that the cost incurred in carrying out H.R. 4785 would be \$978 million in each of the fiscal years 1991 through 1995.

#### CONGRESSIONAL BUDGET OFFICE ESTIMATE

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, May 31, 1990.

Hon. JOHN D. DINGELL,  
*Chairman, Committee on Energy and Commerce,*  
*House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for H.R. 4785, the AIDS Prevention Act of 1990, as ordered reported by the House Committee on Energy and Commerce on May 15, 1990.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM  
(For Robert D. Reischauer, Director).

#### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 4785.
2. Bill title: AIDS Prevention Act of 1990.
3. Bill status: As ordered reported by the House Committee on Energy and Commerce on May 15, 1990.
4. Bill purpose: To amend the Public Health Service Act to establish a program of grants to provide preventive health services with respect to acquired immune deficiency syndrome, and for other purposes.
5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1991	1992	1993	1994	1995
<b>Estimated authorization levels:</b>					
Preventive health service grants.....	500	500	500	500	500
Hospital grants.....	45	47	49	51	55
Prison grants.....	45	60	58	69	80
Emergency relief grants.....	300	300	312	325	338
Emergency response: Employees grants.....	5	5	5	5	5
Comprehensive treatment demos.....	30	31	32	34	35
Grants for provision of drugs.....	30	30	30	30	30
Pediatric AIDS demos.....	20	21	22	23	23
Reports.....	2	1	1	1	1
Total estimated authorization levels.....	978	995	1,008	1,037	1,067
<b>Estimated outlays:</b>					
Preventive health service grants.....	270	420	500	50	25
Hospital grants.....	25	39	48	50	53
Prison grants.....	24	46	56	64	73
Emergency relief grants.....	252	300	310	323	336
Emergency response: Employees grants.....	3	4	5	5	5
Comprehensive treatment demos.....	17	27	32	33	34
Grants for provision of drugs.....	17	26	30	30	30
Pediatric AIDS demos.....	10	18	21	22	23
Reports.....	2	1	1	1	1
Total estimated outlays.....	618	881	1,002	1,027	1,055

Details in the table may not add to totals due to rounding.

The costs of this bill fall within budget function 550.

*Basis of estimate:* H.R. 4785 would establish a number of grant and demonstration programs to provide preventive health services for individuals who are at risk of contracting, or who currently suffer from, Human Immunodeficiency Virus (HIV) or Acquired Immune Deficiency Syndrome (AIDS).

The bill specifies authorization levels for the preventive health service grant program, the emergency response employee grant program and the drug provision grant program for all five years. The bill also provides authorization levels for the emergency relief grant program for fiscal years 1991 and 1992. CBO estimated the 1993 to 1995 authorization levels by increasing the 1992 authorization by projected inflation. For the comprehensive treatment and pediatric AIDS demonstrations, the bill provides an authorization level for fiscal year 1991. CBO estimated the 1992 to 1995 authorization levels by increasing the 1991 authorization by projected inflation.

CBO estimated the authorization levels for the grants to hospitals, grants to prisons, and the required reports, as discussed below.

*Grants to hospitals:* The bill would authorize the Secretary of Health and Human Services (HHS) to make grants to not-for-profit hospitals that have a disproportionate share of AIDS inpatients in order to provide certain preventive health services to other potentially at risk inpatients. On the basis of a 1987 survey of hospitals that serve AIDS patients, CBO estimates that approximately 40 to 50 not-for-profit hospitals, treating a total of 1.2 million inpatients a year, would currently qualify as disproportionate share providers as specified by the bill. Disproportionate providers are hospitals

that either serve more than 250 AIDS inpatients a year or where the AIDS patients treated constitute more than 20 percent of admissions. Further, CBO assumes that about one-half of the inpatients would warrant or request the preventive services.

The preventive health services provided would include counseling before and after HIV testing, initial and confirmatory HIV testing, T4 lymphocytes or T-cell concentration testing to determine appropriate treatment for those who test HIV positive, and appropriate prophylactic drug treatment for the HIV positive inpatients with T-cell concentrations under 500 cells per milliliter of blood.

CBO estimates that 5 percent of the tested inpatients would be infected with HIV. On the basis of Centers for Disease Control (CDC) projections, 40 percent of the people infected with HIV are estimated to have T-cell counts between 200 and 500 per milliliter, suggesting preventive zidovudine (AZT) treatment. Another 20 percent of the people testing positive are estimated to have T-cell concentrations below 200 cells per milliliter and would be eligible for both AZT and aerosol pentamidine treatment. CBO estimates that the grant would cover seven days of treatment, which is the average length of stay for all inpatients.

Given the costs of counseling, testing and treatment, as well as our estimates of the infected population, this provision would cost \$45 million in fiscal year 1991. Costs are estimated to increase to \$55 million in fiscal year 1995 because the number of hospitals qualifying as disproportionate share hospitals is assumed to increase with the projected increases of new AIDS cases each year.

*Grants to prisons:* The bill would also authorize the Secretary of HHS to grant funds to states for the provision of preventive health services to state prisoners. The preventive health services offered would be the same services as those provided in the hospital grant program. The public health officer in each state would have the discretion to determine which prisons, and therefore which prisoners, would be provided with the health services. By examining the prison populations of the six states with the highest prison AIDS incidence, we assume that approximately one-half of the people who enter, or are released from, state penal systems would be given the preventive health services.

According to the National Institute of Justice's estimates, between one-half of 1 percent and 5 percent of the general prison population has HIV. CBO assumes that 5 percent, the high end of the estimate range above, of the prisoners tested would have HIV since the public health officers in each state would be targeting high risk subgroups of the entire prison population.

According to the bill, prisoners would be tested both when they are admitted to prison and 30 days before they are released. CBO assumes that the prisoners who test HIV positive when they enter the prison would be entitled to treatment for as long as they are imprisoned at an assumed average of 18 months. The prisoners who test HIV positive when they are released would be entitled to 30 days of treatment. CBO estimates the cost of this provision to the federal government would be \$45 million in 1991, increasing to \$80 in fiscal year 1995.

*Reports:* The bill would authorize three studies. First, the Secretary of HHS would be authorized to study and report within one

year on the success of programs that notify sexual partners of individuals testing positive for the HIV infection. CBO estimates that this study would cost about \$500,000 in fiscal year 1991. The bill would also require the Secretary of HHS to evaluate and report annually on the grants programs established by this bill that provide preventive health services to individuals with HIV on an outpatient basis. CBO estimates that this provision would cost about \$500,000 each year. Finally, the bill would require the Office of Rural Health Policy to conduct a one year study of the incidence and prevalence of HIV and AIDS in rural areas, as well as the adequacy of treatment in such areas. According to officials at the Office of Rural Health Policy, the study would cost \$500,000 in fiscal year 1991.

This estimate assumes that all authorizations are fully appropriated at the beginning of each fiscal year. Outlays are estimated during spendout rates computed by CBO on the basis of recent program data.

6. Estimated cost to State and local government: The bill would require states receiving grants for prisons to contribute to the cost of providing the preventive health services. The contribution amounts would be not less than \$1 for each \$3 of federal funds in fiscal year 1991, not less than \$1 for each \$2 of federal funds in fiscal year 1992 and not less than \$1 for each \$1 of federal funds in fiscal year 1993 and subsequent years. Given CBO estimates of the prison grant authorization levels, the states would have to contribute \$15 million in fiscal year 1991, \$30 million in 1992, \$78 million in 1993, \$69 million in 1994, and \$80 million in 1995 in order to receive the full amounts of the federal funds.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Karen Graham.

10. Estimate approved by: C.G. Nuckols, for James L. Blum, Assistant Director for Budget Analysis.

#### INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee makes the following statement with regard to the inflationary impact of the reported bill:

The Committee believes that the legislation will have significant anti-inflationary effect. The increasing costs of acute AIDS health care services delivery can be expected to strain the capacity and budgets of many public and private health care providers. In turn, many of these costs will be reflected in Federal expenditures for the Medicaid program and other Federal primary care and disease control efforts. While the funds authorized under this legislation represent only a small fraction of overall Federal spending on health, the benefits of a successful program of Early Intervention and of a successful effort to create alternatives to inpatient care could significantly reduce the future Federal and non-Federal financial costs of the delivery of health care services.

## SECTION-BY-SECTION ANALYSIS

*Section 1. Short title*

Section 1 establishes the short title of the bill to be the "AIDS Prevention Act of 1990." The Committee recognizes that there are many other AIDS prevention activities that must be in place concomitant with those authorized here. The Committee does not intend that public education on AIDS and HIV, risk reduction and disease prevention activities, or other ongoing or planned AIDS prevention or service programs be diminished. Rather the Committee intends to emphasize that the provision of the preventive health services of counseling, testing, and Early Intervention provides the opportunity for the Nation to prevent infection among uninfected Americans and to prevent disease among Americans already infected.

## TITLE I—PREVENTIVE HEALTH SERVICES

*Section 101. Establishment of program of grants*

Section 101 establishes a new Title 26 of the Public Health Service Act, entitled "Preventive Health Services with Respect to Acquired Immune Deficiency Syndrome." Part A of Title 26 is entitled "Grants for the Provision of Services."

*Section 2601. Establishment of program*

Section 2601 establishes a program of grants for the provision of AIDS and HIV preventive health services. Two types of grants are created. Subsection (a) establishes an allotment program for grants to States. Subsection (b) establishes a program for categorical grants to public and non-profit private entities.

Subsection (c) establishes that the purpose of these grants is to provide preventive health services. These services must include pre-test and post-test counseling (as described below in Section 2603), testing (which includes any necessary confirmatory tests to confirm the results of initial testing, as well as the tests needed to diagnose the extent of immune deficiency and those needed to provide information on appropriate preventive and therapeutic measures), and the provision of appropriate preventive and therapeutic measures.

Any grantee must provide all preventive services, either directly or through agreements with other entities. While all services need not be provided at a single site, the Committee intends that grants be used to create a continuum of services.

In many situations currently, testing programs are not associated with treatment programs and vice versa, leaving patients and practitioners alike with difficult problems of uncoordinated and disjointed care. By providing grants for all preventive health services in combination, the Committee emphasizes its expectation that persons who are counseled and tested will receive appropriate follow-up services by grantees (directly or indirectly), including such measures as T-cell counts (or the successor to such technology), indicated anti-viral drugs, and indicated preventive and Early Intervention therapies.

The Committee anticipates that grantees will, in applying for funding, plan in a manner (such as those used for pre-paid capitated services) to ensure that the estimates of number of people to be served with the grant will include adequate apportionment of funds for follow-up diagnostic and therapeutic services.

Paragraph (4) of subsection (c) provides for optional services that may be provided with grant funds. These services include appropriate outreach activities, case management in the provision of coordinated health care services, and assistance in obtaining other health, mental health, and social and support services.

Subsection (d) requires that health care services funded by these grants be provided by entities that have entered into a participation agreement with the State Medicaid plan and are qualified to receive payments under such plan. This requirement may be waived by the Secretary in the case of an entity that is performing services for a grantee if that entity does not impose charges or accept reimbursements for the provision of health care services.

Given the prevalence of HIV infection among the poor, the Committee anticipates that significant numbers of those receiving preventive health services will be eligible for Medicaid. While Medicaid coverage varies from State to State, all States must cover some services, such as physician care and laboratory services, and a number of States have also elected to cover some optional services, such as case management. To maximize the number of preventive health services that grantees can deliver and the number of patients they can serve, the Committee intends that funds authorized under the bill be used to pay for services only where Medicaid or other third party payment is not available.

Accordingly, subsection (d) requires that providers that are delivering preventive services under a grant participate in the Medicaid program and bill the program for preventive health services rendered to Medicaid beneficiaries to the extent that those services are covered under the State plan. The Committee recognizes that in some cases the applicant for the grant will subcontract with other entities for the provision of some of the preventive health services funded under the grant. In this case, the subcontractor must participate in the Medicaid program. Applicants or subcontractors that are not qualified to participate in Medicaid may not receive grant funds. The Committee recognizes that in some communities free clinics, which make services available to all without regard to ability to pay and do not bill the patient or the patient's insurer for those services, may wish to participate in the provision of preventive health services. To facilitate the involvement of these free clinics, the Committee bill directs the Secretary to waive the Medicaid participation requirement with respect to the clinic. This is intended to allow a grantee to use funds authorized by the Committee bill to subcontract with a free clinic for the provision of preventive health services, even though the clinic does not participate in Medicaid.

Subsection (e) establishes provisions regarding categorical grants. Eligible grantees include those health care entities that are already providing services to persons who are, for a variety of reasons, at elevated risk of HIV infection. These include, for example, sexually transmitted disease clinics, tuberculosis clinics, community and mi-

grant health centers, programs for health care to the homeless, family planning clinics, drug abuse clinics, hospital outpatient clinics, AIDS health service clinics or alternate test sites, and comprehensive hemophilia diagnostic and treatment centers.

These sites have received a variety of recommendations for increasing AIDS and HIV preventive health services and have been forced to choose to ignore these recommendations or to erode their other roles in public health and primary care. With the additional funds authorized under this program, these clinics will be able to supplement their services by providing AIDS and HIV preventive health services to patients and clinics.

The Committee recognizes that many of these entities receive Federal assistance under other programs, and the Committee encourages the Director of CDC and the Administrator of the Health Resources and Services Administration (HRSA) to simplify the applications for AIDS preventive health services, perhaps by allowing for a single application for grants for the entity's primary mission (e.g., STD or TB control or community primary care) and for the additional grants for AIDS preventive health services authorized here. The Committee does, however, expect the Secretary to require sufficient detail in applications and reports to allow for audits and evaluations to assure that services required under this title are provided and that these authorized funds are used to supplement—and not supplant—other moneys. The Committee also expects that the Secretary will continue to maintain cooperative agreements with those local health entities already engaged in AIDS prevention activities with the CDC and that the Secretary will make efforts to ensure that minimal disruption results from the transition from those agreements to the more comprehensive preventive health services of this part.

In making funds available to these public and nonprofit private entities, the Secretary should also make States aware of the award of such grants in order to facilitate State planning for the delivery of services. Similarly, to the extent practical, the Secretary should make categorical grantees aware of ongoing or planned Federal assistance to States for preventive health services.

Paragraph (2) also specifies that, in making categorical grants, the Secretary is to give preference to areas with increasing numbers of cases of AIDS and, in future years when data are sufficient, HIV infection. Among these areas, the Secretary is to give special consideration to rural areas.

The Committee is mindful that a number of areas will have ongoing needs and anticipates that the Secretary will continue to provide grants for services in these areas, but the Committee also recognizes that the epidemic is increasing in many areas that have not experienced a significant number of AIDS cases in the past. The Committee intends that the Secretary allocate funds for these areas as the number of cases in such areas grows, knowing that some rural areas—especially those with recognized problems of drugs and sexually transmitted diseases—can be expected to have need of AIDS and HIV preventive health services.

Paragraph (3) specifies that the Secretary shall ensure that grants for the provision of preventive health services to persons with hemophilia are to be made through the network of compre-

hensive hemophilia diagnostic and treatment centers. The centers were originally established by the Congress in 1976 to respond to the severely disabling effects of hemophilia. Since that time, the program has been a major force in helping to reduce costly hospitalization and disability, and serves as a model for the management of other chronic diseases.

Because of their total reliance on blood products to control bleeding episodes, it is estimated that over 60 percent of the hemophilia population have been exposed to HIV, with 90 percent of individuals with severe hemophilia being infected. It is further estimated that between 15 and 20 percent of the sexual partners of people with hemophilia have been exposed to HIV. Almost one-third of AIDS cases in children between 6 and 19 involve hemophilia patients.

The Committee is aware that many people with hemophilia receive the majority of their primary care services through such centers. The effectiveness of the centers network in responding to the AIDS epidemic was recently recognized by the National AIDS Commission as a model of successful comprehensive care. The Committee intends that the Secretary facilitate the provision of AIDS and HIV services for these people by providing these services through this network that already has established ties with patients and their families.

Paragraph (4) authorizes the provision of technical assistance to those entities that may need assistance in the preparation of applications for funding under this Part. The Committee recognize that some agencies that would provide AIDS and HIV preventive services effectively to underserved areas may not be familiar with the process of grant and contract awards and might be disadvantaged in this process despite the need for services in their areas. This provision is intended to allow the Secretary to facilitate the application process for such entities.

*Section 2602. Requirements with respect to confidentiality and informed consent*

Section 2602 establishes requirements for both State and categorical grantees regarding confidentiality.

Section 2602(a) requires that States receiving grants agree to maintain confidentially all information regarding the receipt of all preventive health services (i.e., counseling, testing, diagnostic, and therapeutics, as described above) in such State in a manner not inconsistent with any applicable local, State, or Federal law. This Section also requires that categorical grantees agree to maintain confidentially information regarding the receipt of preventive health services received pursuant to this grant in a manner not inconsistent with such applicable law.

While the Committee reported legislation in the 100th Congress regarding a Federal program of confidentiality of records of counseling and testing, no such Federal program is established in this legislation. As a condition of receiving funds under this Part, however, States must agree that all information regarding AIDS and HIV counseling, testing, and provision of therapeutics in such State will be maintained confidentially, and other grantees must agree to

maintain the records of services provided with these funds in such required manner.

Section 2602(b) establishes requirements that applicants for grants will test an individual only after obtaining a written statement that the individual has received pre-test counseling (described below in Section 2603) and that the individual is undergoing such testing voluntarily. Specific exception is made to allow an individual undergoing testing by pseudonym to consent to such testing using the pseudonym and to allow an individual undergoing testing anonymously to consent to such testing orally. This informed consent requirement is included to ensure that testing is accompanied by the pre-test counseling that might produce risk-reduction and education about AIDS and to ensure that all testing is conducted voluntarily.

*Section 2603. Requirement of provision of certain counseling services*

Section 2603 requires that grantees provide pre-test counseling to all persons who are to be tested and post-test counseling to all persons who have been tested. The Committee recognizes that counseling is an indispensable component of the provision of any AIDS and HIV preventive health services and that testing without such counseling cannot yield the benefits of risk reduction or appropriate patient care and may, indeed, be counterproductive. Counseling and testing services are useful in the control of the spread of AIDS and HIV only to the extent that they may result in the change of behaviors that may transmit the infection and in the provision of further diagnostics and therapeutics. Research results indicate that the adequacy of accompanying counseling is clearly the most important variable in determining whether an individual does or does not make the behavior change necessary to protect himself or herself and those around him or her, and that knowledge of test results alone is not sufficient. Other research on testing performed without adequate counseling has demonstrated that there is great risk of serious mental health consequences (including severe depression, severe anxiety, and suicide) as well as frequent misunderstanding of the meaning of test results. The Committee intends that both in the award of grants and in program implementation, the Secretary assure that the funds provided under this Part support pre- and post-test counseling of sufficient accessibility and quality to assure that behavior change is encouraged, appropriate health services offered, and that the mental health consequences of testing are addressed. The Committee understands that the CDC has issued guidelines for both pre- and post-test counseling and would expect that applicants, in both their application and in their practice, would assure that such guidelines are followed.

Section 2603(a) requires that grantees provide pre-test counseling that includes counseling regarding prevention, the accuracy of the test, the significance of the results, appropriate follow-up testing, encouragement of appropriate testing, the benefits (including Early Intervention) of such testing, confidentiality, and discrimination protections.

The Committee believes that such information is useful to all persons, whether infected or not infected. While the Committee recognizes that some testing sites have chosen to limit pre-test

counseling to minimal information sessions with the intention of providing in-depth counseling only to those individuals who subsequently are found to be infected, the Committee rejects this approach as a false economy. Regardless whether they are infected or not, individuals who are tested should understand fully the meaning of test results and the means to prevent further exposure of themselves and others to infection. The Committee recognizes that the psychological shock—or relief—of receiving test results can often preclude the absorption of vital post-test information. The Committee, therefore, intends that pre-test counseling be fully given to all persons and does not intend that grantees be allowed to abbreviate such counseling.

Section 2603(b) requires that grantees provide post-test counseling to persons who test negative regarding prevention, the accuracy of the test and the significance of its results, and the appropriateness of further follow-up services. Research studies have demonstrated that persons testing negative may resume unsafe behavior in the mistaken belief that test results are conclusive, that they themselves are immune to infection, or that their behavior is safe. The Committee intends that post-test counseling emphasize the limits of testing and also emphasize risk reduction and behavior change.

Section 2603(c) requires that grantees provide post-test counseling to persons who test positive regarding prevention, the accuracy of the test and the significance of its results, and the appropriateness of further follow-up services, the availability of AIDS and HIV preventive health services through the grantee, the availability in the area of other appropriate health and mental health care and social and support services (and appropriate referrals), the benefits of locating and counseling any partners, and the availability of public health services to perform such location and counseling.

Recent research has demonstrated the high degree of stress that learning of infection can place on an individual. Concerns about his or her own future health; concerns for partners and their health; concerns regarding isolation, finances, employment, housing, and privacy—all strain the individual's ability to plan and continue his or her life. Suicide rates among those who are inadequately counseled are disproportionately high. The Committee has, therefore, provided for extensive post-test counseling. The Committee intends that preventive health services grantees that do not themselves provide full follow-up for health, mental health, social and support services develop strong working relationships with providers in the area, giving such providers the appropriate guidance and direction in working with the particular needs of persons infected with HIV. Special attention should be paid to the follow-up counseling needed to change behaviors that may pose a risk of transmission. Moreover, grantees are required (as described at Section 2601 above) to provide further diagnostic and therapeutic services to persons who test positive.

Section 2603(d) requires that grantees ensure that all individuals (including women, children, and hemophiliacs) are provided opportunities for counseling services under conditions appropriate to their needs. While the Committee recognizes that limited funds may constrain the ability of grantees to provide services to all po-

tential patients, the Committee intends that grantees be encouraged to provide counseling services as appropriate and that grantees unable to provide such diverse services be encouraged to develop referral services to other agencies.

Section 2603(e) prohibits the Secretary from making a grant to a State unless the State agrees to provide opportunities for emergency response employees to receive appropriate counseling,

Section 2603(f) makes clear that the Secretary may not prohibit grantees from providing counseling alone to an individual who will not undergo testing as a result of a determination that such testing is inappropriate. While the Committee has provided for grants for preventive health services, the Committee recognizes that counseling services alone may often be all that is requested by an individual. The Committee wishes to make explicit that the Secretary is not to disallow expenses associated with such services.

*Section 2604. Applicability of requirements with respect to confidentiality, informed consent, and counseling*

Section 2604 provides that the Secretary may not make a grant unless the grantee agrees that all counseling and testing services for AIDS performed by the grantee will be performed in compliance with the confidentiality, informed consent, and counseling requirements of Sections 2602 and 2603 (described above). The Committee has provided in Section 2605 (described below) that certain agencies which receive grants are routinely to offer and encourage preventive health services to all patients, regardless of the patients' sources of payment. The Committee is concerned that these patients and others like them be provided by the grantee with the same confidentiality, opportunity for consent, and counseling as are those who are served with Federal funds.

*Section 2605. Requirement of offering and encouraging preventive health services*

Section 2605 provides that certain grantees offer and encourage preventive health services as a regular practice in the course of providing other health care. (As provided above in Section 2601, such services are to include counseling, testing, diagnostics, and therapeutics for AIDS and HIV infection.) Such preventive health services are to be given only on a voluntary basis. As recommended by the CDC, grantees that are providers of STD, TB, and drug abuse services are to offer and encourage such services to all patients. Grantees that are family planning clinics and providers of health care to pregnant women are to evaluate patients and to offer and encourage such services to those patients for whom the services are found to be medically appropriate.

Section 2605(c) explicitly limits this requirement of to offer and encourage the acceptance of preventive health services to the sufficiency of the grant funds available for this purpose. As described above, all preventive health services must be provided to patients, and the Committee expects that grantees will plan for the number of persons served, the number expected to be infected, and the number expected to require Early Intervention therapeutics. The Committee recognizes, however, that the requirement to offer such services to all patients and the potential of a shortfall of grants

funds could combine to discourage these grantees from applying to provide services at all, for fear of being made financially responsible for unexpected demand. The Committee includes Section 2605(c) to eliminate that disincentive for providers to apply for funds under this Part while retaining the CDC guidance that preventive health services should be routinely offered.

Grantees that are health care providers to pregnant women are also required to make referrals to any demonstration projects in the area that are grantees for research and services for pediatric AIDS patients (described at Section 403, below).

*Section 2606. Grants for hospitals regarding offering, encouraging, and providing preventive health services*

Section 2606 establishes a distinct program to make grants to certain public and nonprofit private hospitals for the purpose of offering, encouraging the use of, and providing preventive health services to inpatients of the hospital. Grants received under this program are independent of any support a hospital may apply for to conduct outpatient services under Section 2601.

Hospitals eligible to receive support under this section are those institutions that have, in the previous year for which data are available, admitted 250 AIDS patients or, alternatively, a number equal to at least 20 percent of its inpatients. In order to make best use of limited funds, the Committee intends to restrict eligibility to those hospitals serving patient populations in which HIV infection is high and the Committee has adopted these criteria as the most readily ascertainable index of potentially high infection rates. This provision for preventive health services are to help direct appropriate treatment to the individual patient and are not intended to be a substitute for or a grounds for modification of policies of strict adherence to the CDC's policy of universal precautions against occupational infection.

Grantees under this section must agree to offer, encourage the use of, and provide preventive health services to all inpatients between the ages of 15 and 50 and to any other inpatient for whom the hospital determines such services are medically appropriate. Such services are to be performed only with the consent of the patients.

The requirement of offering and encouragement of preventive health services is explicitly limited to the sufficiency of the grant funds available for this purpose. All preventive health services—counseling, testing diagnostics, and therapeutics—must be provided to inpatients, and the Committee expects that grantees will plan for the number of persons served, the number expected to be infected, and the number expected to require Early Intervention therapeutics. The Committee recognizes, however, that the requirement to offer such services to all patients and the potential of a shortfall of grants funds could combine to discourage these hospitals from applying to provide services at all, for fear of being made financially responsible for unexpected demand. The Committee recognizes, indeed, that the very institutions made eligible for receipt of these grants are those least likely to be financially able to undertake any additional responsibilities. The Committee includes Section 2606(c)(2) to eliminate that disincentive for providers to apply for

funds under this Part while retaining the routine nature of the availability of preventive health services. The Committee believes that the legislation provides sufficient direction to the hospitals as to whom such preventive services should be directed and does not intend that a numerical goal or quota be imposed for the offering, encouraging, or acceptance of such services.

Funds made available under this section are only for the provision of preventive services to inpatients. When patients are discharged, grantees are to provide appropriate referrals to an outpatient grantee under Section 2601 or another appropriate entity providing outpatient preventive health services. The Committee intends that grantees under Section 2606 establish ongoing referral arrangements with such non-hospital providers in order to encourage continuity of care of HIV-infected patients.

Grantees under Section 2606 are to make reports to the Secretary of statistical and epidemiological information, and are to make assurances that they will abide by requirements for the provision of services, informed consent, confidentiality, and application form. The Secretary is to report to the Congress on the implementation of Section 2606.

There are authorized to be appropriated such sums as may be necessary to carry out this section.

*Section 2607. Requirement for State grantees of notification of certain individuals receiving blood transfusion*

Section 2607 provides that the Secretary may not make a grant under Section 2601 to a State unless the State provides assurances that it will encourage the population of individuals in the State that received transfusions of whole blood or blood-clotting factors between certain dates to receive preventive health services, and that the State will inform this population of public health facilities in the area that provide such services. The Committee does not intend that the Secretary require that the States adopt a program of individual notification of such blood-product recipients; such an approach would be unworkable and prohibitively expensive. Rather, the Committee intends that States carry out an appropriate program of public information about the risks that were associated with blood products between 1977 and 1985 and about the potential health benefits of preventive health services for persons who received such products during that time. Such programs include such public information activities as public service announcements, posters, flyers, and other general means. The Committee also recognizes that some areas of the country may have distinct blood product problems and would expect the Secretary to implement this provision accordingly.

*Section 2608. Requirement for State grantees of reporting and partner notification with respect to cases of infection*

Section 2608(a) prohibits the Secretary from making a grant to a State unless the State provides assurances that it will require that any entity performing testing services within the State report data to the chief State public health officer sufficient to perform statistical and epidemiological analyses of the epidemic in the State. This requirement applies only to States because it is only within the

power of the States to make such assurances; other entities are legally unable to make such assurances and can thus not be required to do so as a condition of their receipt of funds.

The Committee is, however, very concerned that this increased gathering of data not discourage public participation in preventive health services. Both anecdotal reports and research studies indicate that a policy of reporting identifying information to a State health officer—even if carried out confidentially—results in a decrease in counseling and testing of infected persons and those persons most at risk of infection. Other studies indicate that the availability of counseling and testing without such requirements of identifying information increases the use of counseling and testing by those at highest risk and increases the number of infected persons who are counseled and tested.

The Committee has considered and rejected amendments to the legislation to require that names or other identifying information also be reported to the State, in addition to demographic data. The legislation does not prohibit the gathering of such information, but the Committee has left to the States this decision and the complex questions of whether gathering of such information discourages individuals from volunteering for counseling, testing, and Early Intervention. The Committee notes that States have resolved these questions in many different manners, depending upon the infection rate in the State, the financial resources of the State, and such epidemiological factors as the degree of drug use in the State.

Section 2608(b) prohibits the Secretary from making a grant to a State unless the State provides assurances that it will require that the chief State public health officer, to the extent appropriate in the determination of the officer, carry out a program of partner notification regarding infection with HIV. The Committee believes that many individuals who are infected will use such a program to provide anonymous notification to sexual or needle-sharing partners who may also be at risk of infection or who may have exposed the individual initially. Such services are often a useful complement to voluntary counseling and testing programs and should be made available to the degree that the chief State public health officer considers appropriate.

The Committee has not required programs of universal or “required” partner notification, i.e., a requirement that partner notification to be performed in all instances of positive test results. The Committee recognizes that some States have such universal programs and that other States have chosen to perform more limited programs, according to their determinations of what is appropriate for the State. The legislation leaves such a determination solely to the State and does not attempt to make such far-reaching requirements a condition of receipt of funds.

*Section 2609. Requirement for State grantees of establishment of civil and criminal actions with respect to knowing transmission*

Section 2609 prohibits the Secretary from making a grant to a State unless it provides assurances that knowing or intentional exposure of another to HIV is civilly and criminally actionable. The term “exposed” is defined below at Title V.

The Committee explicitly limits such criminal and civil actions to circumstances in which the individual is infected, actually knows that he or she is infected, and actually knows that another individual will be placed at risk by his or her actions. The Committee does not intend that States that which are grantees create any standard of constructive knowledge and does not intend that such States subject to civil or criminal liability individuals who act in good faith, who do not know of their own infection, or who do not understand that through their actions they may expose another individual to the etiologic agent. It is the Committee's intent, however, that States have in place causes of action that can be used against those people who do deliberately continue with any of these unsafe activities with the knowledge that through these actions they may expose others.

The Committee does not intend that conception or pregnancy or other means of transmission from mother to child be construed as a behavior that is to be subject to civil or criminal action.

Section 2609(b) creates an exception to the requirements of Section 2609(a) to make those requirements inapplicable in instances in which the individual exposed provides consent to the exposure.

Section 2609(c) provides for time limitations on the requirements of 2609(a) to allow States that do not already have laws or regulations of specific or general applicability that meet these requirements a period in which to meet these requirements.

Section 2609(d) prohibits the Secretary from requiring a State to enact a statute or regulation to meet the requirements of 2609(a) if the Governor of the State certifies that the law of the State is in substantial compliance with the requirements of the section. The Committee recognizes that many, if not all, States already have specific or general causes of action in their statutes, regulations, or case law that meet the requirements of this Section. The Committee does not intend that States that have civil and criminal causes of action that would apply to knowing transmission be required to reenact or restate these provisions specifically with regard to HIV transmission in an effort to qualify for funds under this Part. If a State certifies to the Secretary that these civil and criminal actions are adequately provided, the Secretary may not require the Governor to act further.

*Section 2610. Grants for States regarding mandatory testing and other preventive health services for individuals sentenced to certain State prisons*

Section 2610 establishes a distinct program to make grants to States for the purpose of mandatory testing and the provision of preventive health services in certain prisons. Grants received under this program are independent of any support a State may apply for to conduct services under Section 2601.

Prisons in which such programs are to be conducted are those in which the chief State public health officer and the chief State correctional officer have determined that such preventive health services are appropriate for the public health and safety. In making this determination, the officers are to consider the number of HIV infections and the HIV infection rate of the areas in which prison inmates resided before incarceration, the extent of risk activities in

such areas, and the extent to which medical examination of inmates indicates risk. If adequate data on HIV infection are not available, the officers should consider cases of AIDS instead. In order to make best use of limited funds, the Committee intends to restrict eligibility to those prisons in which HIV infection is high and the Committee has adopted the criteria described above as indicative of potentially high infection rates.

Grantees under this section must agree to require testing for infection of all inmates upon entering the State system and within thirty days of release from the system. Consent requirements are not applicable to such testing, although all such inmates are to be informed that such testing is being conducted and are to be counseled before and after testing. Other preventive health services (such as diagnostics and Early Intervention therapeutics) must also be provided to those inmates whose test results indicate that such services are medically appropriate.

Provision is also made to inform employees of the penal system of the results of such testing if the employee has a reasonable basis for believing that he or she has been exposed to HIV. (The term exposed is defined below at Title V.) Similarly, provision is made to inform the spouse of an inmate upon request before conjugal visits and within 30 days of the inmate's release. With these exceptions the State is required to maintain test results confidentially and to make disclosures only as medically necessary. The Committee notes that release of information regarding the infection status of inmates is a highly sensitive matter in most prisons and intends that confidentiality in these matters be strictly observed.

Other than its requirement that mandatory testing be initiated and preventive health services be made available to all prisoners, the Committee does not intend to address the administration of prison health programs.

There are authorized to be appropriated such sums as may be necessary to carry out these programs.

#### *Section 2611. Additional required agreements*

Section 2611(a) provides that the applicant for funding under Section 2601 must submit to the Secretary a specification of its expenditure of funds for preventive health services in the preceding year and an estimate of the number of persons receiving such services in the preceding year. This requirement is provided in order to give some measure of services against which a maintenance of effort requirement might be judged. The Committee has provided (at Section 2611(d), below) for a requirement that these funds be used to supplement—not supplant—other non-Federal funds for these purposes and believes that this application information is a necessary benchmark for the implementation of this requirement.

In addition, the applicant must also agree to submit to the Secretary a report on implementation of the program of preventive health services. This information, which should be provided in a manner that allows comparison among grantees, will be needed to assess the reach and success of the program in assuring access to preventive health services and that such services are of high quality.

Section 2611(b) requires that an applicant agree that, to the extent permitted under State law, the applicant will offer substantial opportunities for an individual to be counseled and tested anonymously or through the use of a pseudonym. The Committee considered and rejected amendments to eliminate this provision. The Committee has heard testimony that many individuals are reluctant to participate in counseling and testing programs that require identifying information, even if confidentiality is promised. Studies indicate that many of these individuals will, however, use counseling and testing services if such services are made available on an anonymous basis. The Committee notes that some programs that began with requirements of identifying information are now altering that policy to allow for anonymous testing in an effort to reach persons who were fearful of providing their names or identifying information. The Committee intends that every effort be made to reach such persons and that grantees under this Part make the availability of these anonymous and pseudonym options widely known to all individuals who might benefit from such services.

Section 2611(c) prohibits the Secretary from making a grant unless the applicant agrees that it will not condition the provision of other health care services to an individual on the individual's agreement to be tested unless such testing is medically indicated for the services requested. The Committee intends that counseling and testing provided under this Act be undertaken voluntarily and without the duress of withholding other health care services and intends that any exception to this rule be very narrowly made. Thus, for example, an applicant may not condition the testing for or treatment of venereal disease on a patient's consent to be tested for HIV. An applicant may, however, condition the dispensation of cancer chemotherapy that would be medically contraindicated for a patient with an HIV infection on a patient's first taking a test for HIV.

Section 2611(d) prohibits the Secretary from making a grant unless the applicant agrees that the funds provided will be used to increase the availability of preventive health services already provided. The Committee intends that funds provided under this Part be used to supplement, not supplant, existing efforts to provide preventive health services. The Committee recognizes that this Part may itself supplant other, general authority now being used to provide Federal assistance for HIV preventive health services, and does not intend that the reduction or elimination of Federal assistance through other programs or mechanisms be interpreted as a diminution in the grantees' efforts.

Section 2611(e) prohibits the Secretary from making a grant unless the applicant agrees that charges will be made according to a publicly available schedule, that such charges will be adjusted to reflect the income of the individual seeking services, and that no charge will be imposed on any individual below the poverty level.

Section 2611(f) prohibits the Secretary from making a grant unless the applicant agrees that it will seek any available payments from other third-party payors.

Section 2611(g) prohibits the Secretary from making a grant unless the applicant agrees that it will be used for the provision of

authorized services, that the applicant will establish fiscal controls and that the applicant will spend no more than 10 percent of the grant for administrative expenses.

*Section 2612. Requirement of submission of application containing certain agreements and assurances*

Section 2612 establishes application requirements for grants under this Part.

*Section 2613. Determination of amount of allotments for States*

Section 2613 establishes the formula for allotments for grants to States. The formula is based on the number of cases of AIDS in the State in the preceding year, with a minimum allotment of \$100,000 per State and \$50,000 per Territory. Provision is also made for the redistribution of any undistributed funds.

*Section 2614. Provision by Secretary of Supplies and Services in lieu of grant funds.*

Section 2614 authorizes the Secretary to provide supplies and services to a grantee at its request in lieu of providing grant funds.

*Section 2615. Evaluations and reports*

Section 2615 requires that the Secretary conduct or support evaluations of programs carried out with grants under this Part and report on such evaluations to the Congress. These provisions are made in order to determine the most effective and appropriate means of assuring the availability of preventive health services and of ensuring that such services are of high quality. Such report should include an assessment of outcomes of risk reduction and behavior change as a result of receiving preventive health services, as well as the adequacy of counseling, follow-up, and social and support services. Funding for these evaluations is provided for under Section 2616(b)(3), described below.

In addition, Section 2615 provides for a study of partner notification programs to determine the extent to which notified partners undergo counseling and testing, the extent to which these partners are subsequently found to be infected, and the extent to which these partners changed risk behavior with respect to HIV. The Secretary is to report to the Congress within one year of appropriations being made.

*Section 2616. Funding*

Section 2616(a) authorizes \$500 million a year for FY 1991 through 1995 for grants under this Part.

Section 2616(b) provides that half of appropriated funds are to be used for the allotments for grants to States and half are to be used for categorical grants.

Section 2626(c) specifies the use of funds for counseling under this part. The Committee intends that counseling programs be effectively designed to prevent and reduce the risk of infection and subsequent illness. All such counseling provided with funds under this Part should be designed to reduce exposure to and transmission of HIV and to provide information on the health risks of promiscuous sexual activity and intravenous drug abuse. Counseling

programs should not be designed to promote or encourage, directly, intravenous drug abuse or sexual activity. Thus, such programs shall be unacceptable only if they are designed solely for the promotion or encouragement of intravenous drug abuse or sexual activity. Programs that acknowledge the existence of such activities on the part of target populations in order to more effectively bring about behavior change shall not be disqualified under this section.

The Committee does not intend that this limitation be read to be so strict as to prevent counselors from providing counseling about means to reduce an individual's risk of exposure to, or transmission of, HIV. If a counselor has provided information regarding the health risks of promiscuous activity and intravenous drug abuse, the counselor should not, for example, be prohibited from providing counseling and information to a drug abuser about the sterilization of needles; if a counselor has provided information regarding the health risks of promiscuous sexual activity and intravenous drug abuse, the counselor should not be prohibited from providing counseling and information about the use of condoms; or if a counselor has provided information regarding the health risks of promiscuous sexual activity and intravenous drug abuse, the counselor should not be prohibited from providing counseling and information about the reduction of the number of sexual partners, about monogamous relationships, or about behavior changes that are demonstrated to reduce the risk of an individual's exposure to, or transmission of, HIV.

## TITLE II—EMERGENCY RELIEF

### *Section 201. Establishment of program of grants*

Section 201 establishes a new Part B of Title 26 of the Public Health Service Act, entitled "Emergency Relief for Areas with Substantial Need for Services."

### *Section 2621. Establishment of program of grants*

Section 2621(a) authorizes the Secretary, acting through the Administrator of HRSA, to make grants to assist the provision of AIDS services to metropolitan areas. Metropolitan areas eligible for such grants are those that have reported to the CDC by June 30, 1990, (or, in subsequent years, by March 31 of the fiscal year) more than 2,000 cases of AIDS or a number of cases of AIDS that is not less than a rate of .0025 per capita. While confirmation of these cases reported to the CDC is required before payments can be made, such confirmation may occur after June 30, 1990 (or March 31 in subsequent years).

Section 2621(b) specifies that the designated official for receipt of funds on behalf of a metropolitan area is to be the chief elected official of the political subdivision that administers the public health agency serving the greatest number of cases of AIDS.

Section 2621(c) specifies the services to be provided with grants under this Part. These services are to be community-based, enhance the availability and quality of outpatient and ambulatory care to low-income individuals and families with HIV, prevent unnecessary hospitalization, and expedite the provision of services at the medically appropriate level.

The Committee recognizes that a large number of people with AIDS could best be served by non-hospital care. The Committee also recognizes that, in many metropolitan areas, virtually the only source of care for low-income people with AIDS is a hospital. With the addition of these Federal funds, the Committee intends that grantees improve the availability of coordinated community care, allowing individuals to remain in a non-institutional setting as long as medically feasible for them to do so, and allowing individuals to leave institutions with community programs available to them.

Section 2621(d) specifies that services supported with funds authorized under this Part are to be provided through public and non-profit private entities that provide care to a large number of low-income persons with HIV and that are not adequately reimbursed for their costs in doing so. These services may be provided directly or indirectly through contract or cooperative agreement. Further, such entities that provide health care must have entered into participation agreements with the State Medical program and be qualified to receive such payments. (This requirement is waived if the entity does not impose a charge or accept reimbursement for its services.) Priority is to be given to providers that have established a utilization review plan for the care of persons with AIDS and HIV and have established a system to assure that such persons are treated at a medically appropriate level.

The Committee intends that funds provided under this Part be directed toward facilities that serve low-income individuals and particularly those that have uncompensated costs for doing so. The Committee further intends that the grantee provide for the coordination of such clinic, hospice, and home care so as to ensure that such individuals have access to those services needed to prevent medically unnecessary hospitalization. The Committee recognizes that in some areas, this may require the development of cooperative agreements and subcontracts with health care professionals and providers that are profit-making in nature, and expects both the grantee and the Secretary to assure that such arrangements provide no excessive return or charges.

Section 2621(f) provides definitions. For purposes of this part, the term "metropolitan statistical area" has the meaning specified by the Secretary. The Committee understands this term to be one now used for surveillance and epidemiological reporting by the CDC and to be the means of aggregating case reports in the current CDC publication of HIV/AIDS Surveillance.

#### *Section 2622. Administration of grants*

Section 2622 requires that grantees establish intergovernmental agreements with the chief elected officials of all political subdivisions that have more than ten percent of the reported cases of AIDS. These agreements are to provide for the allocation of funds and services in a manner based on the proportion of cases and the severity of need of such subdivisions. The Committee anticipates that such funds will be distributed according to the health care and social service needs of low-income people living with AIDS and HIV. The Committee recognizes that, in some areas, single institutions are responsible for services to individuals from a variety of

political subdivisions, and the Committee intends that funds flow on the basis of services provided or planned and not simply on a per capital basis among areas.

Section 2622 also requires that a grantee establish a broadly representative HIV Health Services Planning Council. This Council is intended to be comprised of leaders of affected communities, providers, and patients, as well as charitable organizations and representatives of the religious community that are active in programs of prevention and care services. This Council is responsible for the development of a plan for the delivery of health services to individuals with AIDS or HIV, for the establishment of priorities for the allocation of funds within the area, and for the evaluation of the administration of such funds. The grantee is to allocate funds on the basis of the priorities established. No more than five percent of a grant may be used for administrative costs.

#### *Section 2623. Type and distribution of grant*

Section 2623 establishes two types of grants to eligible metropolitan areas: Grants based on the relative need of an area (as measured by cases and incidence of AIDS) and supplemental grants based on application and demonstrated need and ability to use funds effectively.

Section 2623(a) specifies that half of funds appropriated under this Part are to be reserved for grants based on relative need. These funds are to be made available to grantees within 90 days of appropriations becoming available. These funds are to be allocated among eligible grantees on the basis of a formula. This formula provides that 75 percent of these funds will be allocated among the areas on the basis of the relative number of cases of AIDS reported to the CDC and that 25 percent of these funds will be allocated among the areas on the basis of the relative per capita incidence of AIDS in the eligible areas.

Section 2623(b) specifies that half of funds appropriated under this Part are to be used for supplemental grants, made to eligible areas on the basis of application. These funds are to be distributed on the basis of the severity of the need in the area for additional assistance, the commitment of local resources, the ability of the area to use such funds effectively, and the demonstration that such funds are to be used in a representative manner.

The Committee anticipates that most eligible areas will be able to make a showing of additional need for services. The Committee expects, therefore, for the Secretary to review the commitment of non-Federal resources to ensure that Federal funds are not used to supplant non-Federal monies and to assure that these supplemental grants are used effectively to encourage participation by State, local, and private payors.

#### *Section 2624. Application*

Section 2624 provides for the application for funds under this Part. Such application must include an agreement that these funds will be used to supplement—and not supplant—non-Federal funds committed to AIDS services. The Committee recognizes that this Part may itself supplant other, general authority now being used to provide Federal assistance for HIV preventive health services,

and does not intend that the reduction or elimination of Federal assistance through other programs or mechanisms be interpreted as a diminution in the grantees' efforts.

The application must also include assurances that providers that are assisted with funds authorized under this Part must be part of an established community-based program to provide for a continuum of care for persons with AIDS or HIV. Applications for support under Section 2621 must be submitted within 45 days of appropriations becoming available. Applications for support under Section 2623 are to be made in accordance with a schedule established by the Secretary.

#### *Section 2625. Authorization of appropriations*

Section 2625 authorizes the appropriations of \$300 million for each of the fiscal years 1991 and 1992 and such sums as may be necessary for fiscal years 1993 through 1995.

### TITLE III—EMERGENCY RESPONSE EMPLOYEES

#### *Section 301. Establishment of program*

Section 301 establishes a new Part C of Title 26 of the Public Health Service Act, entitled "Emergency Response Employees." There are two subparts to this Part: Subpart I is entitled "Guidelines and Model Curriculum;" Subpart II is entitled "Notifications of Possible Exposure Regarding Acquired Immune Deficiency Syndrome and Other Infectious Diseases."

#### *Section 2631. Grants for implementation*

Section 2631 authorizes the Secretary to make grants to State and local governments to assist in the implementation of guidelines and model curricula for emergency response employees developed under Section 253 of P.L. 100-607. There are authorized to be appropriated \$5 million a year for Fiscal Years 1991 through 1995 for this purpose.

#### *Section 2641. Establishment of requirement of notifications with respect to victims assisted*

Subpart II establishes a system of notifications of emergency response employees who may have been exposed to an infectious disease. Recognizing that emergency response often involves the transportation of patients from jurisdiction to jurisdiction and also recognizing that emergency regulations regarding occupational illness may vary from one jurisdiction to another, the Committee has adopted a Federal policy of notification of emergency response employees. The Committee does not intend this policy to abridge applicable protections of confidentiality, but rather to establish the parallel duty of notification without identifying information.

Section 2351 provides for the establishment of a notification program.

Each chief State public health officer is to designate one official of each emergency response employer as the officer to receive notifications of potential occupational exposures to infectious diseases. (The term "infectious disease" is defined below at Part V.) In doing so, State public health officers are to give preference to those offi-

cials trained in the provision of health care or in the control of infectious disease.

If an emergency patient is determined by the admitting hospital to have an infectious disease, the hospital is to notify the designated officer of the emergency response unit that transported the patient to the hospital.

Alternatively, if the designated officer of an emergency response unit that served a patient who was transported to a hospital determines (in accordance with guidelines issued by the Secretary) that an employee may have been occupationally exposed to a risk of infection, the designated officer may request that the hospital notify him or her of any diagnosis of an infectious disease. If such an officer requests notification, the hospital is to notify the officer of any determination made that the patient served by the unit has an infectious disease.

Having received a notification from a hospital (through either routine notification or in response to a request), if the designated officer determines (in accordance with guidelines issued by the Secretary) that an employee may have been occupationally exposed to a risk of infection, the officer is to notify the emergency response employee of his or her potential exposure and of any actions indicated as medically appropriate. Although it is beyond the reach of this legislation, the Committee expects that employers of emergency response personnel will provide appropriate services to those personnel determined to have been exposed to an infectious disease. The Committee assumes that such employers will provide, for example, post-exposure evaluation and follow-up consistent with CDC standards and the recently proposed OSHA regulations for bloodborne pathogens.

#### *Section 2642. Rules of construction*

Section 2642 makes explicit that nothing within this Part is intended to be construed to authorize or require testing of any patient for any infectious disease. This Section also makes explicit that nothing in this Part is to be construed to authorize or require any medical facility, designated officer, or emergency response employee to disclose identifying information with respect to either a patient or an emergency response employee. Finally, this Section makes explicit that nothing in this Part is to be construed to authorize any emergency response employee to fail to respond or to deny services to any patient.

#### *Section 2643. Injunctions regarding violation of prohibition*

Section 2643 authorizes the Secretary to obtain injunctive relief with respect to a violation of the notification provisions of this Part. The Secretary is required to establish an administrative process to expedite the receipt of information to the Secretary regarding violations of these provisions and to investigate such allegations and seek appropriate injunctive relief.

## TITLE IV: HEALTH CARE SERVICES

*Section 401. Grants for demonstration projects for comprehensive treatment services*

Section 401 authorizes the Secretary, acting through the Administrator of HRSA, to conduct a program of demonstration projects in the provision of comprehensive treatment service for individuals with AIDS and HIV. The Committee understands that such programs are now in place, funded under general authority and supporting projects in 25 cities. The Committee believes that these demonstration projects have proven valuable and authorizes the program to continue as a complement to the other provisions of this bill.

The Committee does not intend that this action to authorize specifically the AID Service Demonstration Projects be construed to limit the general authority to conduct other demonstrations and is particularly concerned that the recent initiation of pediatric demonstration projects, similar to these, be allowed to continue to function under general authority as their designs are established and their value proven.

*Section 402. Grants to States for the provision of drugs for treatment*

Section 402 authorizes the Secretary, acting through the Administrator of HRSA, to make grants to States for the purchase of approved drugs for the treatment of AIDS and its associated conditions and for the distribution of such drugs to persons who have no other source of payment for them. The Committee understands that such a program is already in place, using both general authority and the authority of the Public Health Emergency Trust Fund. The Committee authorizes the continuation of the program specifically, understanding that some States and their political subdivisions have found this grants program to be invaluable in the assembly of a continuum of care for patients who need drugs and have no other source of payment. The Committee is especially impressed by the creative uses to which such relatively small amounts of money have been put, including the provision of therapies to persons whose eligibility for Medicaid is being established but is temporarily delayed, persons whose other benefits are in question because of homelessness and lack of residency qualifications, and persons who have inpatient hospital insurance but have insufficient resources to pay for prescription drugs. The use of these funds by States has, in many cases, prolonged life and limited inefficient uses of other, more expensive Federal programs.

*Section 403. Demonstration grants for research and services for pediatric patients regarding acquired immune deficiency syndrome*

Section 403 establishes a new program of demonstration grants for the purpose of developing therapeutic drugs and providing services to pediatric AIDS patients. The Secretary, acting through the Administrator of HRSA and the Director of the National Institutes of Health (NIH) is authorized to make grants to community health centers and other public and nonprofit private primary care pro-

viders serving a significant number of HIV-infected pediatric or pregnant patients.

These grants are for the purpose of conducting clinical research on therapies for pediatric HIV patients and providing outpatient health care for such patients and their families. In addition, grants are to be used to provide necessary ancillary services, such as case management; referrals for hospital, drug abuse, mental health and other social and support services; and such transportation, child care, and other services as may be necessary to enable the patients and their families to participate in the program.

Grantees are to establish cooperative agreements with entities that have expertise in biomedical research (such as those now engaged in pediatric studies of pharmaceuticals or conditions relating to HIV or related conditions or those engaged in or developing similar trials for adults). Such entities are to assist the grantee in the design and conduct of the protocol for the research on drugs for the treatment of pediatric patients with AIDS or HIV. Such entities are to provide data produced from such protocols to the NIH for analysis.

The Committee has authorized this program because of its concern that the pace of drug development for pediatric HIV patients is significantly behind that of such projects for adults. While the Committee recognizes that it is necessary for many drugs to be separately tested for use in children for safety and efficacy, the Committee does not believe that such projects have been adequately supported in the past. The resulting delay has endangered many children.

When such a criticism has been made publicly, many researchers have pointed out that the number of pediatric HIV patients with full access to health care and with the ability to obtain access to major medical centers is small. By reason of the means by which the HIV infection is spread, many infected children are members of families with problems of drug abuse and poverty. Such families have little interaction with basic primary health care and even less with research protocols for the development of experimental drugs. Thus, protocols that may be designed for pediatric patients may go without sufficient participants to make the research findings certain or statistically meaningful.

For this reason, the Committee has chosen to create a research program that might bring the development of therapeutic drugs into the communities in which many pediatric HIV patients live and into clinics in which many families at risk of HIV receive their primary care services. With this approach, the Committee hopes to achieve the dual goals of both accruing sufficient number of participants to produce significant research data and providing health care services to pediatric HIV patients. Community health centers, with their long history of service to low-income and uninsured women and children, are natural sites for such work. The Committee also believes that in some areas other providers, such as children's hospitals, may also be well-suited for such activities.

The Committee has further provided for support for health care services for the families of such children in recognition of both the advantage these services might give an entity in recruiting research participants and because such services are often needed by

families with an HIV-infected child. In many such families, one or both parents can be expected to be also infected and close medical monitoring and the provision of health care and Early Intervention can benefit both parent and child.

#### TITLE V: CERTAIN DEFINITION

##### *Section 501. Definitions for title XXVI of the Public Health Service Act*

Section 501 adds a new Part D to Title 26 of the Public Health Service Act, entitled "General Provisions."

##### *Section 2651. Definitions*

Section 2651 defines terms for purposes of the Title 26.

Section 2651(1) defines the term "counseling with respect to acquired immune deficiency syndrome" to mean counseling provided by an individual trained to provide such counseling. The Committee recognizes both the AIDS counseling requires specific training and that a significant portion of AIDS counseling in many setting is provided by persons other than physicians and licensed health care providers. The Committee has, therefore, allowed flexibility in the determination of criteria for qualification. The Committee intends that the wide range of trained professionals continue to provide services, as determined appropriate by the grantee, and notes that counseling by physicians, psychologists, mental health counselors, marriage and family therapists, social workers, nurses and nurse specialists, and other primary care providers is appropriate. The Committee does not, however, intend to limit services to these providers alone and also recognizes that many agencies rely on the services of volunteer counselors trained to provide such services. The Committee understands that the CDC has issued guidelines for both pre- and post-test counseling and would expect that applicants, in both their application and in their practice, would assure that such guidelines are used in the training of counselors. The Committee also notes that need for special sensitivity to the cultural and language differences and needs of patients and anticipates that counselors will be trained to work toward effective risk reduction and behavior change in all patient groups.

Section 2651(6) defines the term "exposed to the etiologic agent for acquired immune deficiency syndrome" to mean to be in circumstances in which there is a significant risk of becoming infected with such agent. The Committee intends that such risks be those recognized by the Secretary and that when the term "exposed" in other instances in this Title that similar guidance be used.

Section 2651(7) defines the term "infection with the etiologic agent for acquired immune deficiency syndrome" to include any condition arising from such agent. The Committee recognizes that at this time the etiologic agent for AIDS is presumed to be the Human Immunodeficiency Virus (HIV). The Committee does not, however, intend that the provisions of this Title apply only to HIV infection. Other etiologic agents, co-factors, and clinical manifestations may arise in the course of AIDS research; the provisions of this Title should be read expansively to include any newly discov-

ered causes, symptoms, and manifestations of the disease. If, for instance, a new virus or virus particle were to be identified as an etiologic agent for AIDS and tests developed for clinical use, the Committee intends that the provisions of this Title apply to the second virus, as well as to HIV. Similarly, if other Early Intervention diagnostics or treatments are developed for another virus or virus particle, the Committee intends that the provisions of this Title be used to make available such diagnostics and treatments.

Section 2651(10) defines the term "preventive health services" to mean those services described in Section 2601(c)(2) of this Title (described above).

#### TITLE VI: GENERAL PROVISIONS

##### *Section 601. Study regarding acquired immune deficiency syndrome in rural areas*

Section 601 requires the Secretary, after consultation with the Director of the Office of Rural Health Policy, to conduct a study to estimate the incidence and prevalence in rural areas of cases of AIDS and infection with HIV. The study is also to assess the adequacy of services for diagnosing and treating such cases in these areas. The Secretary is to report on the study within one year of enactment.

The Committee has included this provision because of its concern that a few data exist on the extent to which AIDS and HIV have become a problem within rural areas in the U.S. The Committee has received information that in some areas, most notably those with additional problems of drugs and sexually transmitted disease, the infection is growing at an unexpectedly high rate. The Committee is concerned that without even sentinel studies or statistical samples of such growth, the Federal government is unable to respond adequately to these communities' growing burden of health care needs.

##### *Section 602. Technical and conforming amendments*

Section 602 makes technical and conforming amendments to the Public Health Service Act.

##### *Section 603. Effective dates*

Section 603 provides that Part C of Title 26 of the Public Health Service Act is to take effect 60 days after enactment of the legislation. All other provisions are to take effect on October 1, 1990 or upon enactment, whichever is later.

#### AGENCY VIEWS

No agencies views have been received on H.R. 4785.

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

## PUBLIC HEALTH SERVICE ACT

\* \* \* \* \*

## TITLE IV—NATIONAL RESEARCH INSTITUTES

\* \* \* \* \*

PART B—GENERAL PROVISIONS RESPECTING NATIONAL RESEARCH  
INSTITUTES

\* \* \* \* \*

## ADVISORY COUNCILS

SEC. 406. (a)(1) \* \* \*

(2) Each advisory council for a national research institute may recommend to the Secretary acceptance, in accordance with section [2101] 2701, of conditional gifts for study, investigation, or research respecting the diseases, disorders, or other aspect of human health with respect to which the institute was established, for the acquisition of grounds, or for the construction, equipping, or maintenance of facilities for the institute.

\* \* \* \* \*

## PART D—NATIONAL LIBRARY OF MEDICINE

## Subpart 1—General Provisions

PURPOSE, ESTABLISHMENT, AND FUNCTIONS OF THE NATIONAL LIBRARY  
OF MEDICINE

SEC. 465. (a) \* \* \*

\* \* \* \* \*

(f) Section [2601] 2701 shall be applicable to the acceptance and administration of gifts made for the benefit of the Library or for carrying out any of its functions, and the Board of Regents shall make recommendations to the Secretary relating to establishment within the Library of suitable memorials to the donors.

\* \* \* \* \*

## PART E—OTHER AGENCIES OF NIH

## Subpart 1—Division of Research Resources

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## ADVISORY COUNCIL

SEC. 480. (a)(1) \* \* \*

(2) The advisory council for the Division of Research Resources may recommend to the Secretary acceptance, in accordance with section [2101] 2701, of conditional gifts for study, investigations, and research and for the acquisition of grounds or construction, equipping, or maintenance of facilities for the Division.

\* \* \* \* \*

## Subpart 3—National Center for Nursing Research

\* \* \* \* \*

## ADVISORY COUNCIL

SEC. 485. (a)(1) \* \* \*

(2) The advisory council for the Center may recommend to the Secretary acceptance, in accordance with section [2101] 2701, of conditional gifts for study, investigations, and research and for the acquisition of grounds or construction, equipping, or maintenance of facilities for the Center.

\* \* \* \* \*

## PART G—GENERAL PROVISIONS

\* \* \* \* \*

## GIFTS

SEC. 497. The Secretary may, in accordance with section [2601] 2701, accept conditional gifts for the National Institutes of Health or a national research institute or for the acquisition of grounds or for the erection, equipment, or maintenance of facilities for the National Institutes of Health or a national research institute. Donations of \$50,000 or over for the National Institutes of Health or a national research institute for carrying out the purposes of this title may be acknowledged by the establishment within the National Institutes of Health or a national research institute of suitable memorials to the donors.

\* \* \* \* \*

## TITLE V—ALCOHOL, DRUG ABUSE AND MENTAL HEALTH PROGRAMS

## PART A—ADMINISTRATION AND INSTITUTES

\* \* \* \* \*

## ADVISORY COUNCILS

SEC. 505. (a)(1) \* \* \*

(2) Each advisory council for an Institute may recommend to the Secretary acceptance, in accordance with section [2101] 2701, of conditional gifts for—

(A) study, investigation, or research respecting the diseases, disorders, or other aspect of human health with respect to which the Institute was established;

(B) the acquisition of grounds for the Institute; or

(C) the construction, equipping, or maintenance of facilities for the Institute.

\* \* \* \* \*

## TITLE IX—AGENCY FOR HEALTH CARE POLICY AND RESEARCH

\* \* \* \* \*

## PART C—GENERAL PROVISIONS

\* \* \* \* \*

## SEC. 926. FUNDING.

(a) \* \* \*

(b) **EVALUATIONS.**—In addition to amounts available pursuant to subsection (a) for carrying out this title, there shall be made available for such purpose, from the amounts made available pursuant to section [2611] 2701 of this Act (relating to evaluations), an amount equal to 40 percent of the maximum amount authorized in such section [2611] 2701 to be made available.

\* \* \* \* \*

**TITLE XXVI—PREVENTIVE HEALTH SERVICES WITH  
RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME**

## PART A—GRANTS FOR PROVISION OF SERVICES

## SEC. 2601. ESTABLISHMENT OF PROGRAM.

(a) **ALLOTMENTS FOR STATES.**—For the purposes described in subsection (c), the Secretary, acting through the Director of the Centers for Disease Control and the Administrator of the Health Resources and Services Administration, shall for each of the fiscal years 1991 through 1995 make an allotment for each State in an amount determined in accordance with section 2613. The Secretary shall, make payments, as grants, to each State from the allotment for the State for the fiscal year involved if the Secretary approves for the fiscal year an application submitted by the State pursuant to section 2612.

(b) **CATEGORICAL GRANTS.**—For the purposes described in subsection (c), the Secretary, acting through the Director of the Centers for Disease Control and the Administrator of the Health Resources and Services Administration, may make grants to public and nonprofit private entities specified in subsection (d)(1).

(c) **PURPOSES OF GRANTS.**—

(1) **IN GENERAL.**—The Secretary may not make a grant under subsection (a) or (b) unless the applicant for the grant agrees to expend the grant for the purposes of providing, on an outpatient basis, the preventive health services specified in paragraph (2) with respect to acquired immune deficiency syndrome.

(2) **SPECIFICATION OF PREVENTIVE HEALTH SERVICES.**—The preventive health services referred to in paragraph (1) are—

(A) counseling individuals with respect to acquired immune deficiency syndrome in accordance with section 2603;

(B) testing individuals with respect to such syndrome, including tests to confirm the presence of an infection with the etiologic agent for such syndrome, tests to diagnose the extent of the deficiency in the immune system, and tests to provide information on appropriate therapeutic measures for preventing and treating the deterioration of the immune system and for preventing and treating conditions arising from the infection; and

(C) providing the therapeutic measures described in subparagraph (B).

(3) **REQUIREMENT OF AVAILABILITY OF ALL PREVENTIVE HEALTH SERVICES THROUGH EACH GRANTEE.**—*The Secretary may not make a grant under subsection (a) or (b) unless the applicant for the grant agrees that each of the preventive health services specified in subparagraphs (A) through (C) of paragraph (2) will be available through the applicant. With respect to compliance with such agreement, a grantee under subsection (a) or (b) may expend the grant to provide the preventive health services directly, and may expend the grant to enter into agreements with other public or nonprofit private entities under which the entities provide the services.*

(4) **OPTIONAL SERVICES.**—*A grantee under subsection (a) or (b)—*

*(A) may expend the grant to provide outreach services to inform individuals, as appropriate, of the availability of preventive health services from the grantee; and*

*(B) may, in the case of individuals who seek preventive health services from the grantee, expend the grant—*

*(i) for case management to provide coordination in the provision of health care services to the individuals and to review the extent of utilization of the services by the individuals; and*

*(ii) to provide assistance to the individuals regarding establishing the eligibility of the individuals for financial assistance and services under Federal, State, or local programs providing for health services, mental health services, social services, or other appropriate services.*

(1) **IN GENERAL.**—*Subject to paragraph (2), the Secretary may not make a grant under subsection (a) or (b) for the provision of preventive health services under subsection (c) in a State unless, in the case of any such service that is available pursuant to the State plan approved under title XIX of the Social Security Act for the State—*

*(A) the applicant for the grant will provide the preventive health service directly, and the applicant has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or*

*(B) the applicant for the grant has entered into an agreement with a public or nonprofit private entity under which the entity will provide the health service, and the entity has entered into such a participation agreement and is qualified to receive such payments.*

(2) **WAIVER REGARDING CERTAIN SECONDARY AGREEMENTS.**—

*(A) In the case of an entity making an agreement pursuant to paragraph (1)(B) regarding the provision of preventive health services, the requirement established in such paragraph shall be waived by the Secretary if the entity does not, in providing health care services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.*

*(B) A determination by the Secretary of whether an entity referred to in subparagraph (A) meets the criteria for a*

*waiver under such subparagraph shall be made without regard to whether the entity accepts voluntary donations regarding the provision of services to the public.*

**(e) PROVISIONS REGARDING CATEGORICAL GRANTS.—**

**(1) CERTAIN MINIMUM QUALIFICATIONS OF GRANTEES.—***The entities referred to in subsection (b) are public entities (including States), and nonprofit private entities, that—*

*(A) are grantees pursuant to section 317(j)(2), section 318(c), section 329, section 330, section 340, section 509A, or section 1001;*

*(B) are hospitals;*

*(C) are health care facilities that provide, on an outpatient basis, care for individuals infected with the etiologic agent for acquired immune deficiency syndrome;*

*(D) have under any appropriations Act received funds as alternate blood testing sites;*

*(E) are comprehensive hemophilia diagnostic and treatment centers; or*

*(F) are otherwise experienced in providing health care to individuals at risk of infection with such etiologic agent.*

**(2) PREFERENCES IN MAKING CATEGORICAL GRANTS.—**

*(A) Subject to subparagraph (B), the Secretary shall, in making grants under subsection (b), give preference to qualified applicants that will provide preventive health services pursuant to such subsection in any geographic area for which—*

*(i) in the case of grants for fiscal year 1991, the number of additional cases of acquired immune deficiency syndrome, as indicated by the number of such cases reported to and confirmed by the Secretary for the most recent fiscal year for which such data is available, increased significantly above the number of additional cases of such syndrome reported to and confirmed by the Secretary for the fiscal year immediately preceding such most recent fiscal year; and*

*(ii) in the case of grants for fiscal year 1992 and subsequent fiscal years, the number of additional cases of infection with the etiologic agent for acquired immune deficiency syndrome, as indicated by the number of such cases for the most recent fiscal year for which such data is available, increased significantly above the number of additional such cases for the fiscal year immediately preceding such most recent fiscal year.*

*(B) In the case of grants under subsection (b) for fiscal year 1992 and subsequent fiscal years, the Secretary shall, for purposes of preferences under subparagraph (A), apply the criteria described in clause (i) of such subparagraph if the Secretary determines that sufficient and accurate data are not available for applying the criteria described in clause (ii) of such subparagraph.*

*(C) In providing preferences under subparagraph (A) for a fiscal year, the Secretary shall give special consideration to rural areas meeting the applicable criteria established in such subparagraph.*

(3) **REQUIREMENT REGARDING SERVICES FOR INDIVIDUALS WITH HEMOPHILIA.**—In making grants under subsection (b), the Secretary shall ensure that any such grants made regarding the provision of preventive health services to individuals with hemophilia are made through the network of comprehensive hemophilia diagnostic and treatment centers.

(4) **TECHNICAL ASSISTANCE REGARDING APPLICATIONS.**—The Secretary may, directly or through grants or contracts, provide technical assistance to nonprofit private entities regarding the process of submitting to the Secretary applications for grants under subsection (b).

**SEC. 2602. REQUIREMENTS REGARDING CONFIDENTIALITY AND INFORMED CONSENT.**

(a) **CONFIDENTIALITY.**—The Secretary may not make a grant under section 2601, unless—

(1) in the case of any State applying for such a grant, the State agrees to ensure that information regarding the receipt of preventive health services is maintained confidentially pursuant to law or regulations in a manner not inconsistent with applicable law; and

(2) in the case of any other entity applying for such a grant, the entity agrees to ensure that information regarding the receipt of preventive health services pursuant to the grant is maintained confidentially in a manner not inconsistent with applicable law.

(b) **INFORMED CONSENT.**—

(1) **IN GENERAL.**—The Secretary may not make a grant under section 2601 unless the applicant for the grant agrees that, in conducting testing pursuant to subsection (c)(1) of such section, the applicant will test an individual only after obtaining from the individual a statement, made in writing and signed by the individual, declaring that the individual has undergone the counseling described in section 2603(a) and that the decision of the individual with respect to undergoing such testing is voluntarily made.

(2) **PROVISIONS REGARDING ANONYMOUS TESTING.**—

(A) If, pursuant to section 2611(b), an individual will undergo testing pursuant to subsection (c)(1) of section 2601 through the use of a pseudonym, a grantee under such section shall be considered to be in compliance with the agreement made under paragraph (1) if the individual signs the statement described in such subsection using the pseudonym.

(B) If, pursuant to section 2611(b), an individual will undergo testing pursuant to subsection (c)(1) of section 2601 without providing any information relating to the identity of the individual, a grantee under such section shall be considered to be in compliance with the agreement made under paragraph (1) if the individual orally provides the declaration described in such paragraph.

**SEC. 2603. REQUIREMENT OF PROVISION OF CERTAIN COUNSELING SERVICES.**

(a) **COUNSELING BEFORE TESTING.**—The Secretary may not make a grant under section 2601 unless the applicant for the grant agrees that, before testing an individual pursuant to subsection (c)(1) of such section, the applicant will provide to the individual appropriate counseling regarding acquired immune deficiency syndrome (based on the most recently available scientific data), including counseling on—

(1) measures for the prevention of exposure to, and the transmission of, the etiologic agent for such syndrome;

(2) the accuracy and reliability of the results of testing for infection with such agent;

(3) the significance of the results of such testing, including the potential for developing acquired immune deficiency syndrome;

(4) encouraging the individual, as appropriate, to undergo such testing;

(5) the benefits of such testing, including the medical benefits of diagnosing the infection in the early stages and the medical benefits of receiving preventive health services during such stages;

(6) provisions of law relating to the confidentiality of the process of receiving such services, including information regarding any disclosures that may be authorized under applicable law and information regarding the availability of anonymous counseling and testing pursuant to section 2611(b); and

(7) provisions of applicable law relating to discrimination against individuals infected with the etiologic agent for acquired immune deficiency syndrome.

(b) **COUNSELING OF INDIVIDUALS WITH NEGATIVE TEST RESULTS.**—The Secretary may not make a grant under section 2601 unless the applicant for the grant agrees that, if the results of testing conducted pursuant to such section indicate that an individual is not infected with the etiologic agent for acquired immune deficiency syndrome, the applicant will review for the individual the information provided pursuant to subsection (a), including—

(1) the information described in paragraphs (1) through (3) of such subsection; and

(2) the appropriateness of further counseling, testing, and education of the individual regarding such syndrome.

(c) **COUNSELING OF INDIVIDUALS WITH POSITIVE TEST RESULTS.**—The Secretary may not make a grant under section 2601 unless the applicant for the grant agrees that, if the results of testing conducted pursuant to such section indicate that the individual is infected with the etiologic agent for acquired immune deficiency syndrome, the applicant will provide to the individual appropriate counseling regarding such syndrome, including—

(1) reviewing the information described in paragraphs (1) through (3) of subsection (a);

(2) reviewing the appropriateness of further counseling, testing, and education of the individual regarding such syndrome; and

(3) providing counseling on—

(A) the availability, through the applicant, of preventive health services;

(B) the availability in the geographic area of appropriate health care, mental health care, and social and support services, including providing referrals for such services, as appropriate;

(C) the benefits of locating and counseling any individual by whom the infected individual may have been exposed to such etiologic agent and any individual whom the infected individual may have exposed to such agent; and

(D) the availability of the services of public health authorities with respect to locating and counseling any individual described in subparagraph (C).

(d) **ADDITIONAL REQUIREMENTS REGARDING APPROPRIATE COUNSELING.**—The Secretary may not make a grant under section 2601 unless the applicant for the grant agrees that, in counseling individuals with respect to acquired immune deficiency syndrome pursuant to this section, the applicant will, when appropriate, ensure that individuals (including women, children, and hemophiliacs) are provided opportunities to undergo the counseling under conditions appropriate to their needs with respect to the counseling.

(e) **COUNSELING OF EMERGENCY RESPONSE EMPLOYEES.**—The Secretary may not make a grant under section 2601 to a State unless the State agrees that, in counseling individuals with respect to acquired immune deficiency syndrome pursuant to this section, the State will provide opportunities for emergency response employees to undergo the counseling under conditions appropriate to their needs with respect to the counseling.

(f) **RULE OF CONSTRUCTION REGARDING COUNSELING WITHOUT TESTING.**—Agreements made pursuant to this section may not be construed to prohibit any grantee under section 2601 from expending the grant for the purpose of providing counseling services described in this sections to an individual who will not undergo testing regarding acquired immune deficiency syndrome as a result of the grantee or the individual determining that such testing of the individual is not appropriate.

**SEC. 2604. APPLICABILITY OF REQUIREMENTS REGARDING CONFIDENTIALITY, INFORMED CONSENT, AND COUNSELING.**

The Secretary may not make a grant under section 2601 unless the applicant for the grant agrees that, with respect to testing for infection with the etiologic agent for acquired immune deficiency syndrome, any such testing carried out by the applicant will, without regard to whether such testing is carried out with Federal funds, be carried out in accordance with conditions described in sections 2602 and 2603.

**SEC. 2605. REQUIREMENT FOR CERTAIN GRANTEEES OF OFFERING AND ENCOURAGING PREVENTIVE HEALTH SERVICES.**

(a) **IN GENERAL.**—The Secretary may not make a grant under section 2601 unless, with respect to preventive health services, the applicant for the grant agrees that—

(1) if the applicant is a health care provider that regularly provides treatment for sexually transmitted diseases, the appli-

cant will offer and encourage such services with respect to individuals to whom the applicant provides such treatment;

(2) if the applicant is a health care provider that regularly provides treatment for intravenous substance abuse, the applicant will offer and encourage such services with respect to individuals to whom the applicant provides such treatment;

(3) if the applicant is a family planning clinic, the applicant will, as medically appropriate for the individuals involved, offer and encourage such services with respect to individuals to whom the applicant provides family planning services;

(4) if the applicant is a health care provider that provides treatment for tuberculosis, the applicant will offer and encourage such services with respect to individuals to whom the applicant provides such treatment; and

(5) if the applicant is a health care provider that regularly provides health care to pregnant women, the applicant will offer and encourage such services with respect to any pregnant woman to whom the applicant provides health care and whom the applicant determines is at risk with respect to acquired immune deficiency syndrome.

(b) **REFERRALS REGARDING PEDIATRIC CASES.**—The Secretary may not make a grant under section 2601 to an applicant to which subsection (a)(5) applies unless the applicant agrees that, if a grantee under section 2653 exists in the geographic area involved, the applicant will provide a referral to the grantee for any pregnant woman determined by the applicant to be infected with the etiologic agent for acquired immune deficiency syndrome.

(c) **SUFFICIENCY OF AMOUNT OF GRANT.**—With respect to compliance with the agreement made under subsection (a), the Secretary may require a grantee under section 2601 to offer, encourage, and provide preventive health services in accordance with such subsection only to the extent that the amount of the grant is sufficient to pay the costs of offering, encouraging, and providing the services.

(d) **CRITERIA FOR OFFERING AND ENCOURAGING.**—Subject to section 2601(c)(3), a grantee to whom subsection (a) applies is, for purposes of such subsection, offering and encouraging preventive health services with respect to the individuals involved if the grantee—

(1) offers such services to the individuals, and encourages the individuals to receive the services, as a regular practice in the course of providing the health care involved; and

(2) provides the preventive health services only with the consent of the individuals.

**SEC. 2606. GRANTS FOR HOSPITALS REGARDING OFFERING, ENCOURAGING, AND PROVIDING PREVENTIVE HEALTH SERVICES.**

(a) **IN GENERAL.**—In addition to grants under section 2601, the Secretary may make grants to public and nonprofit private hospitals for the purpose of offering, encouraging, and providing preventive health services to inpatients of the hospital.

(b) **MINIMUM QUALIFICATIONS OF GRANTEES.**—The Secretary may not make a grant under subsection (a) unless the hospital involved has, for the most recent fiscal year for which the data is available, admitted as inpatients of the hospital—

(1) not fewer than 250 individuals with acquired immune deficiency syndrome; or

(2) a number of such individuals constituting 20 percent of the number of inpatients of the hospital admitted during such period.

(c) **REQUIREMENT OF OFFERING, ENCOURAGING, AND PROVIDING PREVENTIVE HEALTH SERVICES.**—

(1) **IN GENERAL.**—The Secretary may not make a grant under subsection (a) unless, subject to paragraph (3), the hospital involved agrees—

(A) to offer and encourage preventive health services with respect to—

(i) any inpatient of the hospital who is between 15 and 50 years of age (inclusive); and

(ii) any inpatient for whom the hospital determines that such services are medically appropriate; and

(B) to make available such services to any such inpatient who, pursuant to subparagraph (A), requests the services.

(2) **SUFFICIENCY OF AMOUNT OF GRANT.**—With respect to compliance with an agreement under paragraph (1), the Secretary may require a grantee under subsection (a) to offer, encourage, and provide preventive health services only to the extent that the amount of the grant is sufficient to pay the costs of offering, encouraging, and providing the services.

(d) **RESTRICTIONS REGARDING PROVISION OF SERVICES.**—The Secretary may not make a grant under subsection (a) unless the hospital involved agrees that—

(1) the grant will not be expended to provide preventive health services to any individual who is not an inpatient of the hospital; and

(2) in the case of any inpatient who is infected with the etiologic agent for acquired immune deficiency syndrome, the grant will not be expended to provide preventive health services to the inpatient if the hospital learns of the infection through any means other than offering encouraging, and providing the services pursuant to subsection (c)(1).

(e) **REQUIRED REFERRALS.**—The Secretary may not make a grant under subsection (a) unless the hospital involved agrees that, in the case of any individual to whom the hospital has provided preventive health services pursuant to subsection (c)(1), the hospital will, upon discharging the individual from the hospital, provide appropriate referrals for the individual regarding the receipt of such services on an outpatient basis from a grantee under section 2601, or another appropriate entity, that provides such services in the geographic area involved.

(f) **REPORTS TO SECRETARY.**—The Secretary may not make a grant under subsection (a) unless the hospital involved agrees that, with respect to cases of infection with the etiologic agent for acquired immune deficiency syndrome, the hospital will confidentially report to the Secretary, for each fiscal year for which the grant is made, information sufficient—

(1) to perform statistical and epidemiological analyses of the incidence of such cases among inpatients of the hospital; and

(2) to perform statistical and epidemiological analyses of the demographic characteristics of the population of such inpatients who have such infections.

(g) **APPLICABILITY OF PROVISIONS REGARDING INFORMED CONSENT, COUNSELING, AND OTHER MATTERS.**—The Secretary may not make a grant under subsection (a) unless the hospital involved agrees that sections 2601(c)(3), 2602, 2603, 2604, and 2611 will apply to the provision of preventive health services pursuant to the grant in the same manner and to the same extent as such sections apply to the provision of such services by grantees under section 2601.

(h) **REQUIREMENT OF APPLICATION.**—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(i) **REPORT TO CONGRESS.**—Not later than 1 year after the date on which amounts are first appropriated pursuant to subsection (k), and annually thereafter, the Secretary shall submit to the Congress a report on activities carried out by grantees under this section, including any information regarding acquired immune deficiency syndrome that is developed pursuant to such activities.

(j) **CRITERIA FOR OFFERING AND ENCOURAGING.**—For purposes of this section, a hospital receiving a grant under subsection (a) is offering and encouraging preventive health services with respect to the inpatients involved if the hospital—

(1) offers such services to the inpatients, and encourages the inpatients to receive the services, as a regular practice in the course of providing health care to inpatients of the hospital; and

(2) provides the preventive health services only with the consent of the inpatients.

(k) **AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1991 through 1995.

**SEC. 2607. REQUIREMENT FOR STATE GRANTEES OF NOTIFICATION OF CERTAIN INDIVIDUALS RECEIVING BLOOD TRANSFUSIONS.**

(a) **IN GENERAL.**—The Secretary may not make a grant under section 2601 to a State unless the State provides assurances satisfactory to the Secretary that, with respect to individuals in the State receiving, between January 1, 1978, and April 1, 1985 (inclusive), a transfusion of whole blood or a blood-clotting factor, the State will—

(1) encourage the population of such individuals to receive preventive health services; and

(2) inform such population of any public health facilities in the geographic area involved that provide such services.

(b) **RULE OF CONSTRUCTION.**—An agreement made under subsection (a) may not be construed to require that, in carrying out the activities described in such subsection, a State receiving a grant under section 2601 provide individual notifications to the individuals described in such subsection.

**SEC. 2608. REQUIREMENT FOR STATE GRANTEEES REGARDING REPORTING AND PARTNER NOTIFICATION IN CASES OF INFECTION.**

(a) **REPORTING.**—*The Secretary may not make a grant under section 2601 to a State unless, with respect to testing for infection with the etiologic agent for acquired immune deficiency syndrome, the State provides assurances satisfactory to the Secretary that the State will require that any entity carrying out such testing confidentially report to the State public health officer information sufficient—*

*(1) to perform statistical and epidemiological analyses of the incidence in the State of cases of such infection;*

*(2) to perform statistical and epidemiological analyses of the demographic characteristics of the population of individuals in the State who have such infections; and*

*(3) to assess the adequacy of preventive health services in the State.*

(b) **PARTNER NOTIFICATION.**—*The Secretary may not make a grant under section 2601 to a State unless the State provides assurances satisfactory to the Secretary that the State will require that the State public health officer, to the extent appropriate in the determination of the officer, carry out a program of partner notification regarding cases of infection with the etiologic agent for acquired immune deficiency syndrome.*

**SEC. 2609. REQUIREMENT FOR STATE GRANTEEES OF ESTABLISHMENT OF CIVIL AND CRIMINAL ACTIONS REGARDING KNOWING TRANSMISSION.**

(a) **IN GENERAL.**—*The Secretary may not make a grant under section 2601 to a State unless—*

*(1) subject to the condition described in subsection (b), the State prohibits any individual who is infected with the etiologic agent for acquired immune deficiency syndrome from making a donation of blood, semen, or breast milk, if the individual knows of the infection and knows that the individual will through such donation expose another to such etiologic agent in the event that the donation is utilized;*

*(2) subject to the condition described in subsection (b), the State prohibits any individual infected with such etiologic agent from engaging in sexual activity if the individual knows of the infection and knows that the individual will through such sexual activity expose another to such etiologic agent;*

*(3) subject to the condition described in subsection (b), the State prohibits any individual infected with such etiologic agent from injecting himself or herself with a hypodermic needle and subsequently providing the needle to another for purposes of hypodermic injection, if the individual knows of the infection and knows that the individual will through the provision of the needle expose another to such etiologic agent in the event that the needle is utilized;*

*(4) subject to the condition described in subsection (b), the State prohibits any individual from engaging in any behavior with the intent to expose another to such etiologic agent, which behavior would, if carried out as intended, result in exposing the other individual to such etiologic agent; and*

*(5) subject to the condition described in subsection (b), the State authorizes a civil cause of action for damages for any vio-*

lation of a prohibition described in any of paragraphs (1) through (4), and authorizes a criminal penalty for any such violation.

(b) **CONSENT TO RISK OF TRANSMISSION.**—The condition referred to in each of paragraphs (1) through (5) of subsection (a) is that the prohibition described in each such paragraph shall not apply if the individual who is subjected to the behavior involved provides prior consent for being exposed to the etiologic agent for acquired immune deficiency syndrome.

(c) **TIME LIMITATIONS WITH RESPECT TO REQUIRED LAWS.**—With respect to complying with subsection (a) as a condition of receiving a grant under section 2601, the Secretary may make a grant to a State under such section if—

(1) for each of the fiscal years 1991 and 1992, the State provides assurances satisfactory to the Secretary that by not later than October 1, 1992, the State will establish the prohibitions and civil and criminal actions described in subsection (a); and

(2) for fiscal year 1993 and subsequent fiscal years, the State has established such prohibitions and such criminal and civil actions.

(d) **STATE CERTIFICATION WITH RESPECT TO REQUIRED LAWS.**—With respect to complying with subsection (a) as a condition of receiving a grant under section 2601, the Secretary may not require a State to enact any statute, or to issue any regulation, if the chief executive officer of the State certifies to the Secretary that the law of the State is in substantial compliance with this section.

**SEC. 2610. GRANTS FOR STATES REGARDING MANDATORY TESTING AND OTHER PREVENTIVE HEALTH SERVICES FOR INDIVIDUALS SENTENCED TO CERTAIN STATE PRISONS.**

(a) **IN GENERAL.**—In addition to grants under section 2601, the Secretary may make grants to States for the purpose of assisting the States in providing preventive health services to individuals sentenced by the State to a term of imprisonment. The Secretary may make such a grant only if the State involved requires, subject to subsection (d), that—

(1) the services be provided to such individuals; and

(2) each such individual be informed of the requirements of subsection (c) regarding testing and be informed of the results of such testing of the individual.

(b) **REQUIREMENT OF MATCHING FUNDS.**—

(1) **IN GENERAL.**—The Secretary may not make a grant under subsection (a) unless the State involved agrees that, with respect to the costs to be incurred by the State in carrying out the purpose described in such subsection, the State will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to—

(A) for the first fiscal year of payments under the grant, not less than \$1 for each \$3 of Federal funds provided in the grant; and

(B) for any second fiscal year of such payments, not less than \$1 for each \$2 of Federal funds provided in the grant; and

(C) for any subsequent fiscal year of such payments, not less than \$1 for each \$1 of Federal funds provided in the grant.

(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—

(A) Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

(B) In making a determination of the amount of non-Federal contributions for purposes of subparagraph (A), the Secretary may include only non-Federal contributions in excess of the average amount of non-Federal contributions made by the State involved toward the purpose described in subsection (a) for the 2-year period preceding the first fiscal year for which the State is applying to receive a grant under such section.

(c) MANDATORY TESTING.—The Secretary may not make a grant under subsection (a) unless—

(1) the State involved requires that, subject to subsection (d), any individual sentenced by the State to a term of imprisonment be tested for infection with the etiologic agent for acquired immune deficiency syndrome—

(A) upon entering the State penal system; and

(B) during the 30-day period preceding the date on which the individual is released from such system;

(2) with respect to informing employees of the penal system of the results of such testing of the individual, the State—

(A) upon the request of any such employee, provides the results to the employee in any case in which the employee has a reasonable basis for believing that the employee may have been exposed by the individual to such etiologic agent; and

(B) informs the employees of the availability to the employees of such results under the conditions described in subparagraph (A);

(3) with respect to informing the spouse of the individual of the results of such testing of the individual, the State—

(A) upon the request of the spouse, provides such results to the spouse prior to each conjugal visit and provides such results to the spouse during the period described in paragraph (1)(B); and

(B) informs the spouse of the availability to the spouse of such results under the conditions described in subparagraph (A); and

(4) the State, except as provided in paragraphs (2) and (3), maintains the confidentiality of the results of testing conducted pursuant to this subsection and makes disclosures of such results only as medically necessary.

(d) DETERMINATION OF PRISONS SUBJECT TO REQUIREMENT.—

(1) *IN GENERAL.*—The Secretary may not make a grant under subsection (a) unless the State involved agrees that the requirement established in such subsection regarding the provision of preventive health services to inmates will apply only to inmates who are incarcerated in prisons with respect to which the State public health officer, after consultation with the chief State correctional officer, has, on the basis of the criteria described in paragraph (2), determined that the provision of such services is appropriate with respect to the public health and safety.

(2) *DESCRIPTION OF CRITERIA.*—The criteria to be considered for purposes of paragraph (1) are—

(A) with respect to the geographic areas in which inmates of the prison involved resided before incarceration in the prison—

(i) the number of cases of infection with the etiologic agent for acquired immune deficiency syndrome in the geographic areas during the period in which the inmates resided in the areas;

(ii) the per capita incidence of such cases in the areas during such period; and

(iii) the extent to which a significant percentage of the population of the areas is known by the State public health officer to have engaged, during such period, in behavior that places individuals at risk with respect to such cases; and

(B) the extent to which medical examinations conducted by the State for inmates of the prison involved indicate that the inmates have engaged in such behavior.

(3) *AVAILABILITY OF RELEVANT DATA.*—The Secretary may not make a grant under subsection (a) unless, with respect to the criteria described in paragraph (2), the State involved agrees that if sufficient and accurate data regarding the number of cases of infection with the etiologic agent for acquired immune deficiency syndrome is not available, data regarding the number of cases of such syndrome will be utilized.

(e) *APPLICABILITY OF PROVISIONS REGARDING INFORMED CONSENT, COUNSELING, AND OTHER MATTERS.*—The Secretary may not make a grant under subsection (a) unless the State involved agrees that sections 2601(c)(3), 2603, and 2611(c) will apply to the provision of preventive health services pursuant to the grant in the same manner and to the same extent as such sections apply to the provision of such services by grantees under section 2601.

(f) *REQUIREMENT OF APPLICATION.*—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(g) *AUTHORIZATION OF APPROPRIATIONS.*—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1991 through 1995.

**SEC. 2611. ADDITIONAL REQUIRED AGREEMENTS.**

(a) **REPORTS TO SECRETARY.**—The Secretary may not make a grant under section 2601 unless—

(1) the applicant submits to the Secretary—

(A) a specification of the expenditures made by the applicant for preventive health services for the fiscal year preceding the fiscal year for which the applicant is applying to receive the grant; and

(B) an estimate of the number of individuals to whom the applicant has provided such services for such fiscal year; and

(2) the applicant agrees to submit to the Secretary a report providing—

(A) the number of individuals to whom the applicant provides preventive health services pursuant to the grant;

(B) epidemiological and demographic data on the population of such individuals;

(C) the extent to which the costs of health care for such individuals are paid by third-party payors;

(D) the average costs of providing each category of preventive health service; and

(E) the aggregate amounts expended for each such category.

(b) **PROVISION OF OPPORTUNITIES FOR ANONYMOUS COUNSELING AND TESTING.**—The Secretary may not make a grant under section 2601 unless the applicant for the grant agrees that, to the extent permitted under State law, the applicant will offer substantial opportunities for an individual—

(1) to undergo counseling and testing pursuant to such section without being required to provide any information relating to the identity of the individual; and

(2) to undergo such counseling and testing through the use of a pseudonym.

(c) **PROHIBITION AGAINST REQUIRING TESTING AS CONDITION OF RECEIVING OTHER HEALTH SERVICES.**—The Secretary may not make a grant under section 2601 unless the applicant for the grant agrees that, with respect to an individual seeking health services from the applicant, the applicant will not require the individual to undergo testing described in such section as a condition of receiving any health services unless such testing is medically indicated in the provision of the health services sought by the individual.

(d) **INCREASED AVAILABILITY OF PREVENTIVE HEALTH SERVICES.**—If an applicant for a grant under section 2601 has carried out a program of providing any preventive health service during the majority of the 180-day period preceding the fiscal year for which the applicant is first applying to receive such a grant, the Secretary may not make such a grant to the applicant for any fiscal year unless the applicant agrees to expend the grant only for the purpose of significantly increasing the availability of preventive health services provided by the applicant above the average level of availability provided under the program during such period.

(e) **LIMITATION ON IMPOSITION OF FEES FOR SERVICES.**—The Secretary may not make a grant under section 2601 unless the applicant

for the grant agrees that, if a charge is imposed for the provision of preventive health services under the grant, such charge—

(1) will be made according to a schedule of charges that is made available to the public;

(2) will be adjusted to reflect the income of the individual involved; and

(3) will not be imposed on any individual with an income of less than 100 percent of the official poverty line, as established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

**(f) RELATIONSHIP TO ITEMS AND SERVICES UNDER OTHER PROGRAMS.—**

(1) **IN GENERAL.**—The Secretary may not make a grant under section 2601 unless the applicant for the grant agrees that, subject to paragraph (2), the grant will not be expended to make payment for any preventive health service to the extent that payment has been made, or can reasonably be expected to be made, with respect to such service—

(A) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

(B) by an entity that provides health services on a pre-paid basis.

(2) **APPLICABILITY TO CERTAIN SECONDARY AGREEMENTS FOR PROVISION OF SERVICES.**—An agreement made under paragraph (1) shall not apply in the case of an entity through which a grantee under section 2601 provides preventive health services pursuant to subsection (c)(3) of such section, if the Secretary has provided a waiver under subsection (d)(2) of such section regarding the entity.

**(g) ADMINISTRATION OF GRANT.**—The Secretary may not make a grant under section 2601 unless the applicant for the grant agrees that—

(1) the applicant will not expend amounts received pursuant to such section for any purpose other than the purposes described in such section;

(2) the applicant will establish such procedures for fiscal control and fund accounting as may be necessary to ensure proper disbursement and accounting with respect to the grant; and

(3) the applicant will not expend more than 10 percent of the grant for administrative expenses with respect to the grant.

**SEC. 2612. REQUIREMENT OF SUBMISSION OF APPLICATION CONTAINING CERTAIN AGREEMENTS AND ASSURANCES.**

The Secretary may not make a grant under section 2601 unless—

(1) an application for the grant is submitted to the Secretary containing agreements and assurances in accordance with this part and containing the information specified in section 2611(a)(1);

(2) with respect to such agreements, the application provides assurances of compliance satisfactory to the Secretary; and

(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and infor-

mation as the Secretary determines to be necessary to carry out this part.

**SEC. 2613. DETERMINATION OF AMOUNT OF ALLOTMENTS FOR STATES.**

(a) **MINIMUM ALLOTMENT.**—Subject to the extent of amounts made available in appropriations Acts, the amount of an allotment under section 2601(a) for a State for a fiscal year shall be the greater of—

(1) \$100,000 for each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, and \$50,000 for each of the territories of the United States other than the Commonwealth of Puerto Rico; and

(2) an amount determined under subsection (b).

(b) **DETERMINATION UNDER FORMULA.**—The amount referred to in subsection (a)(2) is the product of—

(1) an amount equal to the amount made available pursuant to section 2616(b)(1) for the fiscal year involved; and

(2) a percentage equal to the quotient of—

(A) an amount equal to the number of cases of acquired immune deficiency syndrome reported to and confirmed by the Director of the Centers for Disease Control for the State involved for the most recent fiscal year for which such data is available; divided by

(B) an amount equal to the number of cases of acquired immune deficiency syndrome reported to and confirmed by the Director of the Centers for Disease Control for the United States for the most recent fiscal year for which such data is available.

(c) **DISPOSITION OF CERTAIN FUNDS APPROPRIATED FOR ALLOTMENTS.**—

(1) **IN GENERAL.**—Any amounts available pursuant to paragraph (2) shall, in accordance with paragraph (3), be allotted by the Secretary each fiscal year to States receiving payments under section 2601(a) for the fiscal year (other than any State referred to in paragraph (2)(C)). The Secretary shall make payments, as grants, to each such State from any such allotment for the State for the fiscal year involved.

(2) **SPECIFICATION OF AMOUNTS.**—The amounts referred to in paragraph (1) are any amounts that are not paid to States under section 2601(a) as a result of—

(A) the failure of any State to submit an application under section 2612;

(B) the failure, in the determination of the Secretary, of any State to prepare the application in compliance with such section or to submit the application within a reasonable period of time; or

(C) any State informing the Secretary that the State does not intend to expend the full amount of the allotment made to the State.

(3) **AMOUNT OF ALLOTMENT.**—The amount of an allotment under paragraph (1) for a State for a fiscal year shall be an amount equal to the product of—

(A) an amount equal to the amount available pursuant to paragraph (2) for the fiscal year involved; and

(B) the percentage determined under subsection (b)(2) for the State.

**SEC. 2614. PROVISION BY SECRETARY OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.**

(a) *IN GENERAL.*—Upon the request of a grantee under section 2601, the Secretary may, subject to subsection (b), provide supplies, equipment, and services for the purpose of aiding the grantee in providing preventive health services and, for such purpose, may detail to the State any officer or employee of the Department of Health and Human Services.

(b) *LIMITATION.*—With respect to a request described in subsection (a), the Secretary shall reduce the amount of payments under section 2601 to the grantee involved by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

**SEC. 2615. EVALUATIONS AND REPORTS.**

(a) *EVALUATIONS.*—The Secretary shall, directly or through grants and contracts, evaluate programs carried out with grants made under section 2601.

(b) *REPORT TO CONGRESS.*—The Secretary shall, not later than 1 year after the date on which amounts are first appropriated pursuant to section 2616(a), and annually thereafter, submit to the Congress a report—

(1) summarizing the reports submitted to the Secretary pursuant to section 2611(a)(2);

(2) describing model programs for the provision of preventive health services;

(3) recommending criteria to be used in determining the geographic areas with the most substantial need for preventive health services;

(4) summarizing evaluations carried out pursuant to subsection (a) during the preceding fiscal year; and

(5) making such recommendations for administrative and legislative initiatives with respect to this title as the Secretary determines to be appropriate.

(c) *STUDY REGARDING PARTNER NOTIFICATION.*—

(1) *IN GENERAL.*—The Secretary shall conduct a study of programs of partner notification for the purpose of determining—

(A) in the case of individuals who have been notified under such programs regarding acquired immune deficiency syndrome, the percentage of such individuals who undergo counseling and testing regarding such syndrome;

(B) in the case of such individuals who have undergone testing regarding such syndrome, the number of such individuals determined through the tests to be infected with the etiologic agent for such syndrome; and

(C) the extent to which such programs have, in the case of such individuals, resulted in behavioral changes that are effective regarding the prevention of exposure to, and the transmission of, such etiologic agent.

(2) *REPORT*.—Not later than 1 year after appropriations are first made under section 2616(a), the Secretary shall complete the study required in paragraph (1) and submit to the Congress a report describing the findings made as a result of the study.

#### SEC. 2616. FUNDING.

(a) *AUTHORIZATION OF APPROPRIATIONS*.—For the purpose of making grants under subsections (a) and (b) of section 2601, there is authorized to be appropriated \$500,000,000 for each of the fiscal years 1991 through 1995.

(b) *ALLOCATION OF FUNDS BY SECRETARY*.—

(1) *ALLOTMENTS*.—For the purpose of making allotments under section 2601(a), the Secretary shall make available 50 percent of the amounts appropriated pursuant to subsection (a), subject to paragraph (3).

(2) *CATEGORICAL GRANTS*.—For the purpose of making grants under section 2601(b), the Secretary shall make available 50 percent of the amounts appropriated under subsection (a), subject to paragraph (3).

(3) *EVALUATIONS*.—For the purpose of conducting evaluations under section 2615(a), the Secretary shall make available 1 percent of the amounts appropriated under subsection (a) for a fiscal year. Amounts appropriated under such subsection shall not be subject to being made available by the Secretary under section 2711.

(c) *USE OF FUNDS*.—Counseling programs carried out under this part—

(1) shall not be designed to promote or encourage, directly, intravenous drug abuse or sexual activity, homosexual or heterosexual;

(2) shall be designed to reduce exposure to and transmission of the etiologic agent for acquired immune deficiency syndrome by providing accurate information; and

(3) shall provide information on the health risks of promiscuous sexual activity and intravenous drug abuse.”

#### PART B—EMERGENCY RELIEF FOR AREAS WITH SUBSTANTIAL NEED FOR SERVICES

#### SEC. 2621. ESTABLISHMENT OF PROGRAM OF GRANTS.

(a) *ESTABLISHMENT*.—

(1) *ELIGIBLE GEOGRAPHIC AREAS*.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall, subject to paragraph (2), make grants in accordance with section 2623 for the purpose of assisting in the provision of the services specified in subsection (c) in any metropolitan statistical area for which, as of June 30, 1990, in the case of grants for fiscal year 1991, and as of March 31 of the most recent fiscal year for which such data is available in the case of a grant for any subsequent fiscal year—

(A) there has been reported to the Director of the Centers for Disease Control a cumulative total of more than 2,000 cases of acquired immune deficiency syndrome; or

(B) the per capita incidence of cumulative cases of such syndrome (computed on the basis of the most recently avail-

able data on the population of the geographic area) is not less than 0.0025.

(2) **REQUIREMENT REGARDING CONFIRMATION OF CASES.**—The Secretary may not make a grant under paragraph (1) for a metropolitan statistical area unless, before making any payments under the grant, the cases of acquired immune deficiency syndrome reported for purposes of such paragraph have been confirmed by the Secretary, acting through the Director of the Centers for Disease Control.

(b) **DESIGNATION OF POLITICAL SUBDIVISION TO RECEIVE GRANT.**—The Secretary may make grants under subsection (a) only to the chief elected official of the city, urban county, or other political subdivision that administers the public health agency serving the greatest proportion of cases of acquired immune deficiency syndrome in the eligible geographic area involved, as indicated by the number of such cases reported to the Director of the Centers for Disease Control.

(c) **SPECIFICATION OF HEALTH AND OTHER COMMUNITY-BASED SERVICES.**—The services referred to in subsection (a) are community-based services—

(1) to enhance the quality of outpatient and ambulatory care services provided to low-income individuals and families with HIV disease;

(2) to deliver outpatient and ambulatory care services including case management to such individuals and families, including comprehensive treatment and support services;

(3) to prevent unnecessary inpatient hospitalization; and

(4) to expedite the provision of services to individuals in the most medically appropriate level of service.

(d) **PROVISIONS REGARDING SERVICE PROVIDERS.**—

(1) **CERTAIN MINIMUM QUALIFICATIONS.**—The Secretary may not make a grant under subsection (a) unless the political subdivision involved agrees that, in expending the grant, the services specified in subsection (c) will be provided only through public or nonprofit private clinics, sub-acute care facilities, community health centers, community mental health centers, hospices, ambulatory care facilities, or other public or nonprofit private entities, that—

(A) provide health care to a disproportionate share of low-income individuals and families with HIV disease; and

(B) incur uncompensated costs in providing health care to such individuals and families.

(2) **REQUIREMENT OF STATUS AS MEDICAID PROVIDER.**—

(A) Subject to subparagraph (B), the Secretary may not make a grant under subsection (a) for the provision of health services under subsection (c) in a State unless, in the case of any such service that is available pursuant to the State plan approved under title XIX of the Social Security Act for the State—

(i) the political subdivision involved will provide the health service directly, and the political subdivision has entered into a participation agreement under the

State plan and are qualified to receive payments under such plan; or

(ii) the political subdivision has entered into an agreement with a public or nonprofit private entity under which the entity will provide the health service, and the entity has entered into such a participation agreement and is qualified to receive such payments.

(B)(i) In the case of an entity making an agreement pursuant to subparagraph (A)(ii) regarding the provision of health services, the requirement established in such subparagraph shall be waived by the Secretary if the entity does not, in providing health care services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

(ii) A determination by the Secretary of whether an entity referred to in clause (i) meets the criteria for a waiver under such clause shall be made without regard to whether the entity accepts voluntary donations regarding the provision of services to the public.

(3) **PRIORITIES.**—The Secretary may not make a grant under subsection (a) unless the political subdivision involved agrees that, with respect to health care providers described in paragraph (1), the political subdivision will give priority to providing the services specified in subsection (c) through such providers that—

(A) have established, and agree to implement, a plan to evaluate the utilization of services provided in the care of individuals and families with HIV disease; and

(B) have established a system designed to ensure that such individuals and families are referred to the most medically appropriate level of care as soon as such referral is medically indicated.

(e) **DEFINITIONS.**—For purposes of this part:

(1) The term “eligible geographic area” means a metropolitan statistical area described in subsection (a)(1).

(2) The term “metropolitan statistical area” means such areas as specified by the Secretary.

#### **SEC. 2622. ADMINISTRATION OF GRANTS.**

(a) **IN GENERAL.**—To receive a grant under section 2621(a), the administering local political subdivision shall, subject to subparagraph (B)—

(1) establish, through intergovernmental agreement with the chief elected officials of all local political subdivisions that have in excess of 10 percent of all individuals with acquired immune deficiency syndrome, as reported to the Centers for Disease Control, in such subdivision within the eligible geographic area, an administrative mechanism to allocate funds and services based on the proportion of cases of such syndrome and severity of need of such subdivisions; and

(2) establish a council in accordance with subsection (c).

(b) **PRIORITIES IN ALLOCATION OF FUNDS.**—Allocation of funds and services under subsection (a) for an eligible geographic area

shall be made in accordance with the priorities established, pursuant to subsection (c)(2) of subsection (b), by the council that serves the eligible geographic area pursuant to such subsection.

**(c) HIV HEALTH SERVICES PLANNING COUNCIL.—**

**(1) IN GENERAL.**—To be eligible for assistance under this part, the chief elected official described in subsection (a)(1) shall agree to provide for an HIV health services planning council not later than 30 days after the date on which such assistance is first received by the official. Such a council shall include representatives of—

- (A) health care service providers;
- (B) community-based service organizations;
- (C) social service providers;
- (D) mental health providers;
- (E) local public health agencies;
- (F) hospital planning agencies or health care planning agencies;
- (G) affected communities;
- (H) community leaders;
- (I) State government;
- (J) grantees under section 2601; and
- (K) individuals who are infected with the human immunodeficiency virus.

**(2) DUTIES.**—The planning council provided for under paragraph (1) shall—

(A) develop a comprehensive plan for the organization and delivery of health services described in section 2621(c) that is compatible with any existing State or local plan regarding the provision of health services to individuals with HIV disease;

(B) establish priorities for the allocation of funds within the eligible geographic area; and

(C) assess the efficiency of the administrative mechanism in rapidly allocating funds to the areas of greatest need within the eligible geographic area.

**(3) METHOD OF PROVIDING FOR COUNCIL.—**

**(A) IN GENERAL.**—In providing for a council for purposes of paragraph (1), a chief elected official receiving a grant under section 2621(a) may establish the council directly or designate an existing entity to serve as the council.

**(B) CONSIDERATION REGARDING DESIGNATION OF COUNCIL.**—In making a determination of whether to establish or designate a council under subparagraph (A), a chief elected official receiving a grant under section 2621(a) shall consider whether the purpose of the council can most effectively be carried out by designating as the council an existing entity that has demonstrated experience in assessing and planning, within the eligible geographic area, health care service needs regarding acquired immune deficiency syndrome.

**(C) PRIORITY IN DESIGNATIONS.**—If a chief elected official receiving a grant under section 2621(a) makes a determination that, in providing for a council under paragraph (1), an existing entity should be designated to serve as the coun-

*cil, the chief elected official shall give priority to designating an entity described in subparagraph (B).*

*(d) ADMINISTRATION AND PLANNING.—Not to exceed 5 percent of amounts received under a grant awarded under section 2621(a) may be utilized for the administration of the grant.*

**SEC. 2623. TYPE AND DISTRIBUTION OF GRANTS.**

*(a) GRANTS BASED ON RELATIVE NEED OF AREA.—*

*(1) IN GENERAL.—In carrying out section 2621(a), the Secretary shall make a grant for each eligible geographic area for which an application under section 2624(a) has been approved. Each such grant shall be made in an amount determined in accordance with paragraph (3).*

*(2) EXPENDITURES OF APPROPRIATIONS.—Of the amounts appropriated under section 2625 for a fiscal year, the Secretary shall reserve 50 percent for making grants under paragraph (1). Not later than 90 days after the date on which appropriations under such section are made for a fiscal year, the Secretary shall obligate all of the amounts so reserved.*

*(3) AMOUNT OF GRANT.—*

*(A) IN GENERAL.—Subject to the extent of amounts made available in appropriations Acts, a grant under paragraph (1) for an eligible geographic area shall be made in an amount equal to the sum of—*

*(i) an amount determined in accordance with subparagraph (B); and*

*(ii) an amount determined in accordance with subparagraph (C).*

*(B) AMOUNT RELATING TO CUMULATIVE NUMBER OF CASES.—The amount referred to in clause (i) of subparagraph (A) is an amount equal to the product of—*

*(i) an amount equal to 75 percent of the amounts reserved under paragraph (2) for the fiscal year involved; and*

*(ii) a percentage equal to the quotient of—*

*(I) the cumulative number of cases of acquired immune deficiency syndrome in the eligible geographic area involved, as indicated by the number of such cases reported to the Director of the Centers for Disease Control; divided by*

*(II) the sum of the cumulative number of such cases in all eligible geographic areas for which an application for a grant under paragraph (1) has been approved.*

*(C) AMOUNT RELATING TO PER CAPITA INCIDENCE OF CASES.—The amount referred to in clause (ii) of subparagraph (A) is an amount equal to the product of—*

*(i) an amount equal to 25 percent of the amounts reserved under paragraph (2) for the fiscal year involved; and*

*(ii) a percentage developed by the Secretary through consideration of the ratio of—*

*(I) the per capita incidence of cumulative cases of acquired immune deficiency syndrome in the eli-*

gible geographic area involved (computed on the basis of the most recently available data on the population of the geographic area); to

(II) the per capita incidence of such cumulative cases in all eligible geographic areas for which an application for a grant under paragraph (1) has been approved (computed on the basis of the most recently available data on the population of such geographic areas).

(b) **SUPPLEMENTAL GRANTS.**—

(1) **IN GENERAL.**—Not later than 150 days after the date on which appropriations are made under section 2625 for a fiscal year, the Secretary shall obligate 50 percent of the amounts appropriated under such section for the fiscal year for the purpose of making grants under section 2621(a) to eligible geographic areas whose application under section 2624(c)—

(A) contains a report concerning the dissemination of emergency relief funds under subsection (a) and the plan for utilization of such funds;

(B) demonstrates the severe need in such area for supplemental financial assistance to combat the HIV epidemic;

(C) demonstrates the commitment of the local resources of the area, both financial and in-kind, to combating the HIV epidemic;

(D) demonstrates the ability of the area to utilize such supplemental financial resources in a way that is immediately responsive and cost effective; and

(E) demonstrates that resources will be allocated in accordance with the local demographic incidence of AIDS including funds for services for infants, children, women, and families with HIV disease.

(2) **AMOUNT OF GRANT.**—The amount of each grant made by the Secretary under paragraph (1) shall be determined by the Secretary based on the application submitted by the eligible geographic area.

**SEC. 2624. APPLICATION.**

(a) **IN GENERAL.**—To be eligible to receive a grant under section 2621(a), an eligible geographic area shall prepare and submit to the Secretary an application in such form, and containing such information as the Secretary shall require, including assurances adequate to ensure—

(1) that, if the applicant for the grant has carried out a program of providing any health service regarding acquired immune deficiency syndrome during the majority of the 180-day period preceding the fiscal year for which the applicant is first applying to receive such a grant, the applicant will, for each fiscal year for which such a grant is made to the applicant, expend the grant only for the purpose of significantly increasing the availability of such services provided by the applicant above the average level of availability provided under the program during such period; and

(2) that agencies and institutions within the eligible geographic area that will receive funds under a grant provided

under this part shall be participants in an established HIV community-based continuum of care.

(b) *DATE CERTAIN FOR SUBMISSION.*—To be eligible to receive a grant under section 2621(a) for a fiscal year, an application under subsection (a) shall be submitted not later than 45 days after the date on which appropriations are made under section 2625 for the fiscal year.

(c) *ADDITIONAL APPLICATION.*—An eligible geographic area that desires to receive a grant under section 2623(b) shall prepare and submit, to the Secretary, an additional application at such time, in such form, and containing such information as the Secretary shall require, including the information required under such subsection.

#### SEC. 2625. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of making grants under section 2621(a), there are authorized to be appropriated \$300,000,000 for each of the fiscal years 1991 and 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995.”

### PART C—EMERGENCY RESPONSE EMPLOYEES

#### Subpart I—Guidelines and Model Curriculum

##### SEC. 2631. GRANTS FOR IMPLEMENTATION.

(a) *IN GENERAL.*—With respect to the recommendations contained in the guidelines and the model curriculum developed under section 253 of Public Law 100-607, the Secretary shall make grants to States and political subdivisions of States for the purpose of assisting grantees regarding the initial implementation of such portions of the recommendations as are applicable to emergency response employees.

(b) *REQUIREMENT OF APPLICATION.*—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(c) *AUTHORIZATION OF APPROPRIATIONS.*—For the purpose of carrying out this section, there is authorized to be appropriated \$5,000,000 for each of the fiscal years 1991 through 1995.

#### Subpart II—Notifications of Possible Exposure Regarding Acquired Immune Deficiency Syndrome and Other Infectious Diseases

##### SEC. 2641. ESTABLISHMENT OF REQUIREMENT OF NOTIFICATIONS WITH RESPECT TO VICTIMS ASSISTED.

(a) *ROUTINE NOTIFICATION OF DESIGNATED OFFICER.*—

(1) *DETERMINATION BY TREATING FACILITY.*—If a victim of an emergency is transported by emergency response employees to a medical facility and the medical facility makes a determination that the victim has an infectious disease, the medical facility shall, with respect to the determination, notify the designated officer of the emergency response employees who transported the victim to the medical facility.

(2) *DETERMINATION BY FACILITY ASCERTAINING CAUSE OF DEATH.*—If a victim of an emergency is transported by emergen-

cy response employees to a medical facility and the victim dies at or before reaching the medical facility, the medical facility ascertaining the cause of the death of the victim shall, with respect to the designated officer of the emergency response employees who transported the victim to the initial medical facility, notify the designated officer of any determination by the medical facility that the victim had an infectious disease.

(3) **REQUIREMENT OF PROMPT NOTIFICATIONS.**— With respect to a determination described in paragraph (1) or (2), the notification required in each of such paragraphs shall be made as soon as is practicable, but not later than 48 hours, after the determination is made.

(b) **NOTIFICATION UPON REQUEST OF DESIGNATED OFFICER.**—

(1) **DETERMINATION BY TREATING FACILITY.**—If a victim of an emergency is transported by emergency response employees to a medical facility, the medical facility shall, upon the request of the designated officer of any emergency response employees who attended, treated, assisted, or transported the victim, notify the designated officer of any determination by the medical facility that the victim has an infectious disease.

(2) **DETERMINATION BY FACILITY ASCERTAINING CAUSE OF DEATH.**—If a victim of an emergency is transported by emergency response employees to a medical facility and the victim dies at or before reaching the medical facility, the medical facility ascertaining the cause of the death of the victim shall, upon the request of the designated officer of any emergency response employees who attended, treated, assisted, or transported the victim, notify the designated officer of any determination by the medical facility that the victim had an infectious disease.

(3) **REQUIREMENT OF PROMPT NOTIFICATION.**—

(A) A medical facility shall make a notification required in paragraph (1) or (2) as soon as is practicable, but not later than 48 hours, after receipt of a request pursuant to the paragraph involved if, prior to the request, a determination described in such paragraph has been made by the medical facility.

(B) A medical facility shall make a notification required in paragraph (1) or (2) as soon as is practicable, but not later than 48 hours, after making a determination described in the paragraph involved if, after receipt of a request pursuant to such paragraph, the determination is made.

(c) **PROCEDURES FOR NOTIFICATION OF DESIGNATED OFFICER.**—

(1) **CONTENTS OF NOTIFICATION TO OFFICER.**—In making a notification required under subsection (a) or (b), a medical facility shall provide the date and, to the extent practicable, the time on which the victim of the emergency involved was transported by emergency response employees to a medical facility.

(2) **MANNER OF NOTIFICATION.**—If a notification under subsection (a) or (b) is mailed or otherwise indirectly made—

(A) the medical facility sending the notification shall, upon sending the notification, inform the designated officer to whom the notification is sent of the fact that the notification has been sent; and

(B) such designated officer shall, not later than 10 days after being informed by the medical facility that the notification has been sent, inform such medical facility whether the designated officer has received the notification.

(d) **DESIGNATION OF INDIVIDUALS TO REQUEST AND RECEIVE NOTIFICATIONS FROM MEDICAL FACILITIES.**—

(1) **IN GENERAL.**—The public health officer of each State shall, for the purpose of requesting and receiving notifications under subsections (a) and (b), and for the purpose of carrying out subsection (e), designate 1 official or officer of each employer of emergency response employees in the State.

(2) **PREFERENCE IN MAKING DESIGNATIONS.**—In making the designations required in paragraph (1), a public health officer shall give preference to individuals who are trained in the provision of health care or in the control of infectious diseases.

(e) **NOTIFICATION OF EMPLOYEE.**—

(1) **ROUTINE NOTIFICATION OF EMPLOYEE.**—After receiving a notification under subsection (a) or (b), a designated officer of emergency response employees shall, to the extent practicable, immediately notify each of such employees who—

(A) responded to the emergency involved; and

(B) as indicated by guidelines developed by the Secretary, may have been exposed to an infectious disease.

(2) **NOTIFICATION UPON REQUEST OF EMPLOYEE.**—A designated officer of emergency response employees shall, upon request of such an employee—

(A) determine whether, if a victim of an emergency to which the employee responded had an infectious disease, the employee might have been exposed to the disease, as indicated by guidelines developed by the Secretary; and

(B) make a request described in subsection (b) if, as indicated by a determination made pursuant to subparagraph (A), the employee might have been exposed to the disease.

(3) **CONTENTS OF NOTIFICATION TO EMPLOYEE.**—A notification under this subsection to an emergency response employee shall inform the employee of—

(A) the fact that the employee may have been exposed to an infectious disease and the name of the disease involved;

(B) any action by the employee that, as indicated by guidelines developed by the Secretary, is medically appropriate; and

(C) if medically appropriate under such criteria, the date and time of such emergency.

(f) **LIMITATION.**—Subsections (a)(1) and (b)(1) shall not apply to any determination described in such subsections made with respect to a victim of an emergency after the expiration of the 60-day period beginning on the date that the victim is transported by emergency response employees to a medical facility.

**SEC. 2642. RULES OF CONSTRUCTION.**

(a) **TESTING.**—Section 2641 may not, with respect to victims of emergencies, be construed to authorize or require a medical facility to test any such victim for any infectious disease.

(b) **CONFIDENTIALITY.**—Section 2641 may not be construed to authorize or require any medical facility, any designated officer of emergency response employees, or any such employee, to disclose identifying information with respect to a victim of an emergency or with respect to an emergency response employee.

(c) **FAILURE TO PROVIDE EMERGENCY SERVICES.**—Section 2641 may not be construed to authorize any emergency response employee to fail to respond, or to deny services, to any victim of an emergency.

**SEC. 2643. INJUNCTIONS REGARDING VIOLATION OF PROHIBITION.**

(a) **IN GENERAL.**—The Secretary may, in any court of competent jurisdiction, commence a civil action for the purpose of obtaining temporary or permanent injunctive relief with respect to preventing a violation of section 2641.

(b) **FACILITATION OF INFORMATION ON VIOLATIONS.**—The Secretary shall establish an administrative process for encouraging emergency response employees to provide information to the Secretary regarding violations of section 2641. As appropriate, the Secretary shall investigate alleged such violations and seek appropriate injunctive relief.

**PART D—CERTAIN HEALTH CARE SERVICES**

**SEC. 2651. GRANTS FOR DEMONSTRATION PROJECTS FOR COMPREHENSIVE TREATMENT SERVICES.**

(a) **IN GENERAL.**—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to public and nonprofit entities for the purpose of providing for demonstration projects to provide comprehensive treatment services for individuals infected with the etiologic agent for acquired immune deficiency syndrome.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of carrying out subsection (a), there are authorized to be appropriated \$30,000,000 for each of the fiscal years 1991 through 1995.

**SEC. 2652. GRANTS TO STATES FOR PROVISION OF DRUGS FOR TREATMENT.**

(a) **IN GENERAL.**—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to States for the purpose of assisting States—

(1) in purchasing drugs approved by the Commissioner of Food and Drugs for use in the treatment of cases of infection with the etiologic agent for acquired immune deficiency syndrome (including treating and preventing conditions arising from such infection); and

(2) in distributing such drugs as medically appropriate to indigent individuals in need of the drugs who have no other means by which to acquire the drugs.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of carrying out subsection (a), there are authorized to be appropriated \$30,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.

**SEC. 2653. DEMONSTRATION GRANTS FOR RESEARCH AND SERVICES FOR PEDIATRIC PATIENTS REGARDING ACQUIRED IMMUNE DEFICIENCY SYNDROME.**

(a) **IN GENERAL.**—The Secretary, acting through the Administrator of the Health Resources and Services Administration and the

*Director of the National Institutes of Health, shall make demonstration grants to community health centers, and other appropriate public or nonprofit private entities that provide primary health care to the public, for the purpose of—*

*(1) conducting, at the health facilities of such entities, clinical research on therapies for pediatric patients infected with the etiologic agent for acquired immune deficiency syndrome; and*

*(2) with respect to the pediatric patients who participate in such research, providing health care on an outpatient basis to such patients and the families of such patients.*

*(b) MINIMUM QUALIFICATIONS OF GRANTEES.—The Secretary may not make a grant under subsection (a) unless the health facility operated by the applicant for the grant serves a significant number of pediatric patients and pregnant women infected with the etiologic agent for acquired immune deficiency syndrome.*

*(c) COOPERATION WITH BIOMEDICAL INSTITUTIONS.—*

*(1) DESIGN OF RESEARCH PROTOCOL.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant—*

*(A) has entered into a cooperative agreement or contract with an appropriately qualified entity with expertise in biomedical research under which the entity will assist the applicant in designing and conducting a protocol for the research to be conducted pursuant to the grant; and*

*(B) agrees to provide the clinical data developed in the research to the Director of the National Institutes of Health.*

*(2) ANALYSIS AND EVALUATION.—The Secretary, acting through the Director of the National Institutes of Health—*

*(A) may assist grantees under subsection (a) in designing and conducting protocols described in subparagraph (A) of paragraph (1); and*

*(B) shall analyze and evaluate the data submitted to the Director pursuant to subparagraph (B) of such paragraph.*

*(d) CASE MANAGEMENT.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees to provide for the case management of the pediatric patient involved and the family of the patient.*

*(e) REFERRALS FOR ADDITIONAL SERVICES.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees to provide for the pediatric patient involved and the family of the patient—*

*(1) referrals for inpatient hospital services, treatment for substance abuse, and mental health services; and*

*(2) referrals for other social and support services, as appropriate.*

*(f) INCIDENTAL SERVICES.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees to provide the family of the pediatric patient involved with such transportation, child care, and other incidental services as may be necessary to enable the pediatric patient and the family of the patient to participate in the program established by the applicant pursuant to such subsection.*

*(g) APPLICATION.—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the*

Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(h) *EVALUATIONS*.—The Secretary shall, directly or through contracts with public and private entities, provide for evaluations of programs carried out pursuant to subsection (a).

(i) *DEFINITION*.—For purposes of this section, the term “community health center” has the meaning given such term in section 330(a).

(i) *AUTHORIZATION OF APPROPRIATIONS*.—For the purpose of carrying out this section, there are authorized to be appropriated \$20,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.

## **PART E—GENERAL PROVISIONS**

### **SEC. 2661. DEFINITIONS.**

For purposes of this title:

(1) The term “counseling with respect to acquired immune deficiency syndrome” means such counseling provided by an individual trained to provide such counseling.

(2) The term “designated officer of emergency response employees” means an individual designated under section 2641(d) by the public health officer of the State involved.

(3) The term “emergency” means an emergency involving injury or illness.

(4) The term “emergency response employees” means firefighters, law enforcement officers, paramedics, emergency medical technicians, and other individuals (including employees of legally organized and recognized volunteer organizations, without regard to whether such employees receive nominal compensation) who, in the course of professional duties, respond to emergencies in the geographic area involved.

(5) The term “employer of emergency response employees” means an organization that, in the course of professional duties, responds to emergencies in the geographic area involved.

(6) The term “exposed”, with respect to acquired immune deficiency syndrome or any other infectious disease, means to be in circumstances in which there is a significant risk of becoming infected with the etiologic agent for the disease involved.

(7) The term “infection with the etiologic agent for acquired immune deficiency syndrome” includes any condition arising from such etiologic agent.

(8) The term “infectious disease” means hepatitis B, hepatitis non-A/non-B, pulmonary tuberculosis, meningococcal meningitis, rubella, infection with the etiologic agent for acquired immune deficiency syndrome, and any other disease designated, in accordance with guidelines issued by the Secretary, as an infectious disease for purposes of part C.

(9) The term “person” includes one or more individuals, governments (including the Federal Government and the governments of the States), governmental agencies, political subdivisions, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies,

*trusts, unincorporated organizations, receivers, trustees, and trustees in cases under title 11, United States Code.*

*(10) The term "preventive health services" means the services specified in section 2601(c)(2).*

*(11) The term "State" means each of the several States, the District of Columbia, and the territories of the United States.*

*(12) The term "territories of the United States" means each of the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.*

*(13) The term "testing for infection with the etiologic agent for acquired immune deficiency syndrome" includes any diagnosis of such infection made by a health care provider licensed to make such a diagnosis under the law of the State in which the diagnosis is made.*

## TITLE [XXVI] XXVII—MISCELLANEOUS

### GIFTS

SEC. [2601.] 2701. (a) The Secretary is authorized to accept on behalf of the United States gifts made unconditionally by will or otherwise for the benefit of the Service or for the carrying out of any of its functions. Conditional gifts may be so accepted if recommended by the Surgeon General, and the principal of and income from any such conditional gift shall be held, invested, reinvested, and used in accordance with its conditions, but no gift shall be accepted which is conditioned upon any expenditure not to be met therefrom or from the income thereof unless such expenditure has been approved by Act of Congress.

(b) Any unconditional gift of money accepted, pursuant to the authority granted in subsection (a) of this section, the net proceeds from the liquidation (pursuant to subsection (c) or subsection (d) of this section) of any other property so accepted, and the proceeds of insurance on any such gift property not used for its restoration, shall be deposited in the Treasury of the United States and are hereby appropriated and shall be held in trust by the Secretary of the Treasury for the benefit of the Service, and he may invest and reinvest such funds in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. Such gifts and the income from such investments shall be available for expenditure in the operation of the Service and the performance of its functions, subject to the same examination and audit as is provided for appropriations made for the Service by Congress.

(c) The evidences of any unconditional gift of intangible personal property, other than money, accepted pursuant to the authority granted in subsection (a) of this section shall be deposited with the Secretary of the Treasury and he, in his discretion, may hold them, or liquidate them except that they shall be liquidated upon the request of the Secretary, whenever necessary to meet payments required in the operation of the Service or the performance of its functions. The proceeds and income from any such property held

by the Secretary of the Treasury shall be available for expenditure as is provided in subsection (b) of this section.

(d) The Secretary shall hold any real property or any tangible personal property accepted unconditionally pursuant to the authority granted in subsection (a) of this section and he shall permit such property to be used for the operation of the Service and the performance of its functions or he may lease or hire such property, and may insure such property, and deposit the income thereof with the Secretary of the Treasury to be available for expenditure as provided in subsection (b) of this section: *Provided*, That the income from such real property or tangible personal property shall be available for expenditure in the discretion of the Secretary for the maintenance, preservation, or repair and insurance of such property and that any proceeds from insurance may be used to restore the property insured. Any such property when not required for the operation of the Service or the performance of its functions may be liquidated by the Secretary, and the proceeds thereof deposited with the Secretary of the Treasury, whenever in his judgment the purpose of the gifts will be served thereby.

#### USE OF IMMIGRATION STATION HOSPITALS

SEC. [2602.] 2702. The Immigration and Naturalization Service may, by agreement of the heads of the departments concerned, permit the Public Health Service to use hospitals at immigration stations for the care of Public Health Service patients. The Surgeon General shall reimburse the Immigration and Naturalization Service for the actual cost of furnishing fuel, light, water, telephone, and similar supplies and services, which reimbursement shall be covered into the proper Immigration and Naturalization Service appropriation, or such costs may be paid from working funds established as provided by law, but no charge shall be made for the expense of physical upkeep of the hospitals. The Immigration and Naturalization Service shall reimburse the Surgeon General for the care and treatment of persons detained in hospitals of the Public Health Service at the request of the Immigration and Naturalization Service unless such persons are entitled to care and treatment under section 332(a).<sup>1</sup>

#### MONEY COLLECTED FOR CARE OF PATIENTS

SEC. [2603.] 2703. Money collected as provided by law for expenses incurred in the care and treatment of foreign seamen, and money received for the care and treatment of pay patients, including any amounts received from any executive department on account of care and treatment of pay patients, shall be covered into the appropriation from which the expenses of such care and treatment were paid.

#### TRANSPORTATION OF REMAINS OF OFFICERS

SEC. [2604.] 2704. Appropriations available for traveling expenses of the Service shall be available for meeting the cost of preparation for burial and of transportation to the place of burial of remains of commissioned officers, and of personnel specified in regulations, who die in line of duty. Appropriations available for

carrying out the provisions of this Act shall also be available for the payment of such expenses relating to the recovery, care, and disposition of the remains of personnel or their dependents as may be authorized under other provisions of law.

#### GRANTS TO FEDERAL INSTITUTIONS

SEC. [2605.] 2705. Appropriations to the Public Health Service available under this Act for research, training, or demonstration project grants or for grants to expand existing treatment and research programs and facilities for alcoholism, narcotic addiction, drug abuse, and drug dependence and appropriations under title VI of the Mental Health Systems Act shall also be available, on the same terms and conditions as apply to non-Federal institutions, for grants for the same purpose to Federal institutions, except that grants to such Federal institutions may be funded at 100 per centum of the costs.

#### TRANSFER OF FUNDS

SEC. [2606.] 2706. For the purpose of any reorganization under section 202, the Secretary, with the approval of the Director of the Bureau of the Budget,<sup>1</sup> is authorized to make such transfers of funds between appropriations as may be necessary for the continuance of transferred functions.

#### AVAILABILITY OF APPROPRIATIONS

SEC. [2607.] 2707. Appropriations for carrying out the purposes of this Act shall be available for expenditure for personal services and rent at the seat of Government; books of reference, periodicals, and exhibits; printing and binding; transporting in Government-owned automotive equipment, to and from school, children of personnel who have quarters for themselves and their families at stations determined by the Surgeon General to be isolated stations; expenses incurred in pursuing, identifying, and returning prisoners who escape from any hospital, institution, or station of the Service or from the custody of any officer or employee of the Service, including rewards for the capture of such prisoners; furnishing, repairing, and cleaning such wearing apparel as may be prescribed by the Surgeon General for use by employees in the performance of their official duties; reimbursing officers and employees, subject to regulations of the Secretary, for the cost of repairing or replacing their personal belongings damaged or destroyed by patients while such officers or employees are engaged in the performance of their official duties; and maintenance of buildings of the National Institutes of Health.

#### UNAUTHORIZED WEARING OF UNIFORMS

SEC. [2608.] 2708. Except as may be authorized by regulations of the President, the insignia and uniform of commissioned officers of the Service, or any distinctive part of such insignia or uniform, or any insignia or uniform any part of which is similar to a distinctive part thereof, shall not be worn, after the promulgation of such regulations, by any person other than a commissioned officer of the Service.

## ANNUAL REPORT

SEC. [2609.] 2709. The Surgeon General shall transmit to the Secretary, for submission to the Congress at the beginning of each regular session, a full report of the administration of the functions of the Service under this Act, including a detailed statement of receipts and disbursements.

## MEMORIALS AND OTHER ACKNOWLEDGMENTS

SEC. [2610.] 2710. The Secretary may provide for suitably acknowledging, within the Department (whether by memorials, designations, or other suitable acknowledgments), (1) efforts of persons who have contributed substantially to the health of the Nation and (2) gifts for use in activities of the Department related to health.

## EVALUATION OF PROGRAMS

SEC. [2611.] 2711. Such portion as the Secretary may determine, but not more than 1 per centum, of any appropriation for grants, contracts, or other payments under any provision of this Act, the Mental Health Systems Act, the Act of August 5, 1954 (Public Law 568, Eighty-third Congress), or the Act of August 16, 1957 (Public Law 85-151), for any fiscal year beginning after June 30, 1970, shall be available for evaluation (directly, or by grants or contracts) of any program authorized by this Act or any of such other Acts, and, in the case of allotments from any such appropriation, the amount available for allotment shall be reduced accordingly.

## CONTRACT AUTHORITY

SEC. [2612.] 2712. The authority of the Secretary to enter into contracts under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

## RECOVERY

SEC. [2613.] 2713. (a) If any facility with respect to which funds have been paid under the Community Mental Health Centers Act (as such Act was in effect prior to October 1, 1981) is, at any time within twenty years after the completion of remodeling, construction, or expansion or after the date of its acquisition—

(1) sold or transferred to any entity (A) which would not have been qualified to file an application under section 222 of such Act (as such section was in effect prior to October 1, 1981) or (B) which is disapproved as a transferee by the State mental health agency or by another entity designated by the chief executive officer of the State, or

(2) ceases to be used by a community mental health center in the provision of comprehensive mental health services, the United States shall be entitled to recover from the transferor, transferee, or owner of the facility, the base amount prescribed by subsection (c)(1) plus the interest (if any) prescribed by subsection (c)(2).

(b) The transferor and transferee of a facility that is sold or transferred as described in subsection (a)(1), or the owner of a facil-

ity the use of which changes as described in subsection (a)(2), shall provide the Secretary written notice of such sale, transfer, or change within 10 days after the date on which such sale, transfer, or cessation of use occurs or within 30 days after the date of enactment of this subsection, whichever is later.

(c)(1) The base amount that the United States is entitled to recover under subsection (a) is the amount bearing the same ratio to the then value (as determined by the agreement of the parties or in an action brought in the district court of the United States for the district in which the facility is situated) of so much of the facility as constituted an approved project or projects as the amount of the Federal participation bore to the cost of the remodeling, construction, expansion, or acquisition of the project or projects.

(2)(A) The interest that the United States is entitled to recover under subsection (a) is the interest for the period (if any) described in subparagraph (B) at a rate (determined by the Secretary) based on the average of the bond equivalent rates of ninety-one-day Treasury bills auctioned during that period.

(B) The period referred to in subparagraph (A) is the period beginning—

(i) if notice is provided as prescribed by subsection (b), 191 days after the date on which such sale, transfer, or cessation of use occurs, or

(ii) if notice is not provided as prescribed by subsection (b), 11 days after such sale, transfer, or cessation of use occurs, and ending on the date the amount the United States is entitled to recover is collected.

(d) The Secretary may waive the recovery rights of the United States under subsection (a)(2) with respect to a facility (under such conditions as the Secretary may establish by regulation) if the Secretary determines that there is good cause for waiving such rights.

(e) The right of recovery of the United States under subsection (a) shall not, prior to judgment, constitute a lien on any facility.

#### USE OF FISCAL AGENTS

SEC. [2614.] 2714. (a) The Secretary may enter into contracts with fiscal agents—

(1)(A) to determine the amounts payable to persons who, on behalf of the Indian Health Service, furnish health services to eligible Indians,

(B) to determine the amounts payable to persons who, on behalf of the Public Health Service, furnish health services to individuals pursuant to section 319 or 322,

(2) to receive, disburse, and account for funds in making payments described in paragraph (1),

(3) to make such audits of records as may be necessary to assure that these payments are proper, and

(4) to perform such additional functions as may be necessary to carry out the functions described in paragraphs (1) through (3).

(b)(1) Contracts under subsection (a) may be entered into without regard to section 3709 of the Revised Statutes (41 U.S.C. 5) or any other provision of law requiring competition.

(2) No such contract shall be entered into with an entity unless the Secretary finds that the entity will perform its obligations under the contract efficiently and effectively and will meet such requirements as to financial responsibility, legal authority, and other matters as he finds pertinent.

(c) A contract under subsection (a) may provide for advances of funds to enable entities to make payments under the contract.

(d) Subsections (d) and (e) of section 1842 of the Social Security Act shall apply to contracts with entities under subsection (a) in the same manner as they apply to contracts with carriers under that section.

(e) In this section, the term "fiscal agent" means a carrier described in section 1842(f)(1) of the Social Security Act and includes, with respect to contracts under subsection (a)(1)(A), an Indian tribe or tribal organization acting under contract with the Secretary under the Indian Self-Determination Act (Public Law 93-638).

ADDITIONAL VIEWS OF HON. WILLIAM E. DANNEMEYER  
ON H.R. 4785, THE AIDS PREVENTION ACT OF 1990

AN UNPRECEDENTED USE OF FEDERAL RESOURCES

The AIDS Prevention Act of 1990 is a pathbreaking piece of legislation in many respects. For the first time, the federal government would make resources available to states, hospitals, high risk clinics, and nonprofit health care facilities to provide "preventive health services" to low income individuals afflicted with a specific disease—AIDS. Indeed, an earlier version of this legislation included an unprecedented expansion of the Medicaid program to provide therapeutic measures to persons infected with the fatal virus. But, because linking Medicaid eligibility to a specific disease set an uncomfortable precedent for many Members of the Committee, this provision was deleted.

The point is that this legislation breaks new ground in bringing federal resources to bear on a very specific national health problem—the epidemic of HIV infection. It includes many admirable provisions which, if enacted, would establish sound priorities and provide state and local health officials with appropriate resources to fight this horrible epidemic.

Although some members of the Committee may hesitate at authorizing more than \$885 million in new spending on AIDS prevention and treatment services at this fiscally uncertain time, it is my belief that federal spending on AIDS will continue to increase rapidly in the years ahead no matter what we do, as more and more of the estimated 1 million Americans who are infected with the HIV virus develop AIDS-related symptoms and require expensive hospital and outpatient care. Fred J. Hellinger, a senior economist with the Agency for Health Care Policy and Research, estimates that the lifetime medical care cost of treating a person with AIDS is \$75,000. Hellinger calculates the cumulative lifetime medical care costs of treating AIDS patients during a given year, moreover, to be \$4.3 billion in 1990, \$5.3 billion in 1991, \$6.5 billion in 1992, and \$7.8 billion in 1993. These costs include inpatient hospital care, nursing home and home health costs, counseling, and therapeutic drug costs.

Given the inevitable surge in future AIDS spending, it is our responsibility to ensure that federal dollars are spent wisely. This means that, to the maximum extent possible, we must target federal dollars on geographic areas with high levels of HIV infection. Whenever at-risk persons interact with the health care system in one of these areas, the health care provider should encourage these persons to undergo HIV testing and counseling. For those who learn that they are infected, therapeutic measures such as AZT should be made available.

The goal of this approach is to alert as many at-risk individuals as possible to their HIV serostatus. Early diagnosis and knowledge of infection benefits both the infected individual and his or her sexual and intravenous needle sharing partners. Early diagnosis enables public health officials to provide therapeutic measures to seropositive persons, to warn unsuspecting partners of their exposure to a fatal virus, and to learn of the extent of infection in various geographic areas. H.R. 4785 addresses this need, in part, by requiring state grantees to establish programs to notify the unsuspecting sexual and intravenous needle sharing partners of infected persons of their risk of exposure. This, too, is unprecedented, in that it may require states to enact new legislation or take administrative steps to comply with this mandate in an area traditionally left to the discretion of the states—public health law.

#### PROVISION OF PREVENTIVE HEALTH SERVICES TO HOSPITALS WITH LARGE CASELOADS OF AIDS PATIENTS

H.R. 4785 provides state and local health officials with most of the tools necessary to achieve this goal. First, the bill targets federal dollars on hospitals with the heaviest caseloads of AIDS patients. According to estimates from the National Association of Public Hospitals, fifty hospitals care for 50 percent of all the AIDS patients in America and, remarkably, only two hundred hospitals care for 85 percent of the AIDS patient caseload. In fact, in many metropolitan areas, a single hospital may handle a third or more of all the AIDS-related admissions for that area.

Data from an ongoing HIV seroprevalence survey of patients admitted to the emergency department of the Johns Hopkins University Hospital since 1986 indicate that the overall level of infection has been increasing steadily among a predominately low income and minority population in Baltimore. The seroprevalence level during this period has increased from 3.0 percent in 1986, to 5.2 percent in 1987, to 6.0 percent in 1988, to 7.5 percent in 1989. Among young black males, the level of infection has increased even more dramatically, reaching 16 percent in 1989.

Preliminary data from the sentinel hospital survey conducted by the Centers for Disease Control (CDC) suggest similar concentrations of infection exist in inner city areas across America. In order to obtain HIV seroprevalence rates for proxy samples of the population in various geographic areas, CDC researchers excluded patients admitted to hospitals for conditions associated with HIV infection, drug related conditions, or violent injury (which often is drug related). Even with these corrections, CDC found that every one of the 27 hospitals analyzed has admitted at least one HIV infected patient for reasons unrelated to that person's infection. Overall, CDC found a range of infection from 0.1 percent to 6.9 percent. In one hospital in Northern New Jersey, 21 percent of males between the ages of 25 and 44 were HIV positive. It is important to emphasize that the vast majority of these persons do not know that they are infected with a fatal, transmissible virus.

This immense concentration of HIV infection in relatively few hospitals argues for an approach that targets federal dollars on hospitals serving patient populations from high incidence areas.

Thus, H.R. 4785 includes a new program to provide funds to hospitals with disproportionately large AIDS caseloads to offer preventive health services to all patients entering the hospital between the ages of 15 and 50, and to others for whom such services are medically appropriate. Expenditures under this section are primarily for HIV testing and counseling and, for the duration of the patient's hospital stay, therapeutic measures. Upon the patient's discharge, the hospital must also inform seropositive patients of the availability of appropriate outpatient services.

H.R. 4785 also requires clinics which, by definition, offer services to high risk individuals to offer and encourage HIV testing and counseling—and, where appropriate, therapeutic measures—to all patients using their services. These include clinics for tuberculosis, sexually transmitted disease, intravenous drug use, and family planning. In addition, clinics that provide health care to pregnant women must make these services available to women determined to be at-risk for HIV.

#### PROVISION OF PREVENTIVE HEALTH SERVICES IN CERTAIN PRISONS

Another important provision in this legislation is section 2610, which establishes a new program to provide preventive health services to inmates in prisons with significant levels of HIV infection. In order to target these resources on prisons with the greatest number of infected inmates, H.R. 4785 allows state health officials to identify high incidence prisons, taking into account: (1) the level of infection in the geographic areas in which the inmates resided; (2) the extent to which the population in these areas is known to have engaged in high risk activity; and (3) the extent to which medical examinations of inmates indicate that the inmates have engaged in such behavior.

Not every prison will qualify for funds under these criteria, and some states will find that the seroprevalence rate among its inmate population is zero or close to zero. Unfortunately, this is not the case in most states. According to the CDC, the overall seroprevalence rate in 109 prisons surveyed between January 1988 and September 1989 was 6.3 percent. In some prison systems, infection rates range as high as 25 percent.

There are many sound reasons to implement mandatory HIV testing and counseling programs in the prison setting. First, many inmates enter prison seronegative, but are infected during their incarceration. A Department of Justice study estimated that each year 60 inmates in the Maryland state prison system are infected by other inmates. In Nevada, the study found, eight inmates acquire the fatal virus each year. All of these unfortunate transmissions could be avoided. In states with much larger inmate populations and greater concentrations of HIV infection, the level of intra-prison transmission is undoubtedly much higher.

Second, mandatory prison testing is the best way to bring early diagnosis of HIV infection and counseling to intravenous drug users who do not seek drug treatment. Intravenous drug users who enter treatment programs receiving funds under section 2605 will be offered preventive health services. But the vast majority of intravenous drug users never voluntarily enter treatment programs

and, as a result, are extraordinarily difficult to reach for purposes of providing HIV prevention services.

One way to reach this high risk group is to make these services available in prison. According to the CDC, 83 percent of intravenous drug users reached through a federally funded outreach demonstration program had been incarcerated at one time. The National Association of State Alcohol and Drug Abuse Directors agrees with this figure, placing it at 80%.

Finally, mandatory HIV testing in prisons offers hope to the unsuspecting partners of seropositive inmates. As stated previously, the CDC estimates that 6.3 percent of the inmate population is infected with the HIV virus. If this is true for the entire U.S. inmate population, almost 24,000 inmates are HIV infected. The vast majority of these inmates do not know that they are infected. In 1988, approximately 340,000 prisoners were released either conditionally or unconditionally. If 6.3 percent of these prisoners were infected, then more than 19,200 inmates were released without knowing their HIV serostatus. As they return to their neighborhoods, they may spread the fatal virus unwittingly to loved ones. The mandatory HIV prison testing program in H.R. 4785 represents a strong first step toward breaking the chain of transmission in areas with high levels of drug use.

#### MAKING THE KNOWING TRANSMISSION OF HIV A CRIME

Another important provision of H.R. 4785 is section 2609, which requires states receiving funds under this bill to enact legislation making the knowing transmission of HIV a crime. Again, due to the extraordinary nature of this epidemic, the Committee has agreed to an extraordinary provision that will, in all likelihood, require many states to pass laws consistent with the language in section 2609.

Conditioning the receipt of funds on state legislative action, such as is required in section 2609, is always a last resort. But, the Committee believes that a comprehensive public health response to this epidemic requires that state and local criminal justice systems penalize persons who knowingly attempt to spread the fatal virus to others. This intrusion on the autonomy of state and local governments is unfortunate, but necessary if we are ever to effectively stem the spread of the HIV epidemic.

#### PRE- AND POST-TEST COUNSELING

The legislation defines "preventive health services" to include HIV counseling, testing, and appropriate therapeutic measures for preventing and treating the deterioration of the immune system and for preventing and treating conditions arising from the infection.

With respect to the pre-test counseling required, section 2603 lists seven specific areas that the counseling must address, including (1) measures for the prevention of exposure to and the transmission of the HIV virus; (2) the accuracy and reliability of HIV testing; (3) the significance of the results of HIV tests; (4) encouraging the individual to undergo HIV testing; (5) explaining the benefits of HIV testing, including the medical benefits of diagnosing the

infection in the early stages and the medical benefits of receiving preventive health services during such stages; (6) provisions of the law relating to the confidentiality of HIV test results; and (7) provisions of the law relating to discrimination against individuals infected with the HIV virus. As is clear, this list encompasses quite a bit of material to be covered before each and every HIV test. While no one doubts the desirability of providing at-risk individuals with counseling on these matters, grantees should provide this counseling in as efficient a manner as is possible.

Counseling that is too time-consuming may deter at-risk individuals from learning their serostatus and tempt providers, who may be overwhelmed by a high volume Medicaid caseload, to dissuade patients from receiving these services. Elaborate counseling, in addition, would consume a disproportionate share of the resources available under this legislation. There certainly exists an acceptable middle ground where the patient receives the necessary pre-test counseling and the provider does not feel overwhelmed by yet another governmentally-imposed mandate. Grantees are urged to find this middle ground.

#### THE MISSING PIECE OF THE PUZZLE

Clearly, H.R. 4785 contains numerous provisions that will improve the ability of state and local health officials to control the spread of the HIV epidemic. Many of these provisions, as discussed earlier, are groundbreaking in that they require states and localities to implement measures—such as laws to make the knowing transmission of HIV a crime, to implement partner notification programs, and to report statistical data concerning the scope of HIV infection in the state—that may be politically controversial. Indeed, H.R. 4785 itself is a precedent-breaking bill in its commitment of hundreds of millions of federal dollars to the fight against a specific sexually transmitted disease.

But there remains one provision which should be included in this legislation to enable public health officials to effectively carry out all these other good provisions—confidential, identity-linked reporting of positive HIV test results to local public health officials for purposes consistent with the public health.

Confidential reporting, simply stated, is the glue that holds together the other provisions in this bill. Without it, the funds appropriated pursuant to this legislation will not be spent effectively. In order for American taxpayers to accept new and expensive programs to fight the epidemic, we must be certain that all appropriated funds are spent wisely. Otherwise, we risk losing their support for future efforts to control this epidemic.

This is especially true in the current fiscal climate. In the past two years, there has arisen a growing sense of frustration among many Americans with respect to the vast sums being expended on our response to the AIDS epidemic. Soon, a larger share of the federal research budget will be devoted to AIDS than to heart disease or cancer, and most experts see no end in sight to the spiraling health care expenditures associated with this fatal illness.

Unfortunately, due to the political clout of certain groups, public health measures used to control the spread of other sexually trans-

missible diseases have not been applied to control the spread of AIDS. Minority citizens residing in areas with high levels of drug use have suffered most from this abdication of responsibility.

Section 2608 (a) requires states receiving funds under this bill to report statistical, demographic, and epidemiological information concerning the level of HIV infection in the state. As Colonel Donald S. Burke, M.D., the Director of the Division of Retrovirology of the U.S. Army, notes in the attached letter, section 2608 implicitly requires states to collect this information with identifiers. Burke described to me how the army reached a similar conclusion:

In early 1985, at the time that we began testing of blood donated at Army blood banks, the Army had not yet developed a specific requirement that a name or social security number be provided for each specimen submitted to our HIV testing laboratory. Most specimens arrived without any information that could be linked back to an individual donor or patient . . . Based on this data, we originally estimated the prevalence of infected donors to be 5 to 7 per 1,000. Subsequently, when an Army policy was implemented requiring that a name and/or social security number be provided for each specimen tested, we discovered that this original estimate was far too high, by a factor of 3 or 4 fold, and that the actual prevalence was 1.5 per 1,000.

Burke explained that in some instances an individual had donated more than once, and was found to be positive on two or more occasions but was counted as a separate person each time. Burke concludes that identity-linked reporting is a prerequisite for the collection of accurate statistical data on the level of infection:

Accurate statistics on the prevalence of HIV among the population of Army donors became possible only when specimens were clearly marked with personal identifiers and records were kept by name and/or social security number, as is the standard laboratory and public health practice for all other diseases.

Assuming that the Committee expects states to submit accurate information pursuant to section 2608 (a), it is clear that H.R. 4785 already contains a mandate for identity-linked reporting by the states.

Thus, the question concerning reporting becomes: Do we want the states to collect this information in a manner that enables local public health officials to carry out programs of partner notification and to provide seropositive individuals with therapeutic measures to treat the deterioration of the infected person's immune system?

Confidential reporting has never been a free-standing requirement in public health law, nor should it be. Historically, its function has been to improve the effectiveness of public health protections such as partner notification. There are many points in the partner notification process where it is essential that the public health caseworker have the ability to contact the index patient in order to faithfully execute the program. Health officials should leave no stone unturned in attempting to notify them of their risk.

Confidential, identity-linked reporting enables them to fulfill this obligation.

#### HOW DOES CONFIDENTIAL REPORTING COMPLEMENT PARTNER NOTIFICATION?

When a person is tested for the HIV virus under a system of anonymous testing, the public health officer must hope and pray that the so-called "index patient" returns for his test results. Typically, between 15 and 20 percent of seropositive individuals never return, and never receive these services. Every time a seropositive individual disappears after being tested, we lose an important opportunity to offer that person counseling and other preventive health services. That individual's sexual and needle sharing contacts are also denied the opportunity to learn of their possible exposure. For many pregnant women in areas with high levels of HIV infection, this is an especially acute problem.

To illustrate, the Wake County Department of Health in North Carolina uses a hybrid system of both confidential and anonymous HIV testing. For the quarter ending March 31, 1990, Wake County reports that 100% of the individuals testing positive at the confidential, identity-linked test sites returned for their test results and post-test counseling. In contrast, only 83% of those testing positive at the anonymous sites did so. Similarly, the health department in Orange County, CA reports that 17% of seropositive patients never return to learn their test results.

Even when the index patient returns to learn his test results, identity-linked reporting is important. Seropositive patients often experience a profound post-test trauma, which may last for several days. In these situations, the seropositive patient needs counseling; partner notification efforts, in fact, may not be appropriate for several days. Without a way to subsequently locate the index patient, partner notification may be impossible.

Finally, more than one interview may be required to collect the information necessary to warn the partners of their risk. The index patient, for example, may submit an outdated phone number or address for one or more of his partners. At this point, it is crucial that the public health worker be able to locate the index patient to ask for other leads as to the partner's whereabouts—relatives or friends who may know the new address, etc. Again, reporting enables the caseworker to carry out this function.

Confidential reporting does not require that the individual submit his name. Some states with confidential reporting, such as Colorado, allow infected persons to use pseudonyms, provided there is a way to locate them subsequent to the HIV test. The military, as Colonel Burke's letter explains, allows blood donors to leave their social security numbers.

Confidential reporting has won widespread support from individuals and organizations that opposed this concept two years ago, when the Congress last considered the issue. In fact, when the Committee considered this issue eighteen members supported an amendment to add an identify-linked reporting requirement to section 2608.

Among those "converts" to reporting are the Centers for Disease Control, the American Medical Association, numerous state medical societies, the Congress of Racial Equality, the New York City Board of Health, and leading public health officials, such as former New York City Health Commissioner Stephen Joseph. Among physicians, the growth in the support for confidential reporting has been especially strong. State medical societies representing physicians in New York, New Jersey, Massachusetts, Ohio, Pennsylvania, Florida, West Virginia, Arkansas, South Dakota, Indiana, Maine, and Tennessee have all embraced this important public health protection.

In a recent communication, Assistant Secretary of Health James Mason, M.D., P.H. stressed that the U.S. Public Health Service recognizes the importance of confidential reporting and partner notification:

Let me emphasize that the PHS is fully committed to partner notification as an HIV prevention strategy. The benefits of early medical and therapeutic intervention for persons infected with HIV argue strongly for an effective partner notification program. Reporting of HIV infection can enhance partner notification activities by enabling earlier recognition of persons with, or those at risk for, HIV infection and by providing earlier interventions and counseling to prevent the spread of HIV infection.

In the May 13, 1990 issue of the New York Times, former New York City Health Commissioner Stephen Joseph explained why he endorses confidential reporting:

We're missing a critical opportunity, for the first time, to get ahead of the virus. We have clear health benefits to offer those who are infected. Early diagnosis is to the benefit of both society and the individual.

Without this commonsense requirement, I believe that much of the money appropriated under this legislation will be wasted.

#### WILL REPORTING DRIVE INDIVIDUALS UNDERGROUND?

The argument that at-risk persons will avoid testing if confidential reporting were in place assumes irrationality on the part of the at risk population. Public health policy should not be premised on assumptions grounded in irrationality.

First, the vast majority of infected persons do not know they are infected, or that they are at risk of infection. The CDC sentinel hospital survey found many cases of undiagnosed HIV infection among persons admitted to hospitals for reasons unrelated to AIDS. These persons have no reason whatsoever to go "underground."

Also, our confidentiality system works. Over 132,000 cases of fully developed AIDS have been reported with identifiers with no breaches of confidentiality. As Dr. Joseph explains:

Public health has [protected the confidentiality of infected persons] very well historically, and there has never been a leak from the New York City Health Department on the name of any AIDS case.

Available data from the Colorado Health Department, moreover, show that states with confidential reporting test as many and, in some cases, more persons per 100,000 of the population than states where testing is anonymous. In 1988, Colorado, which has confidential reporting, tested almost 600 persons per 100,000 of its population. California and New York, two states with no reporting, tested only 477.3 and 230.3 persons per 100,000 respectively.

Finally, opponents of confidential reporting have cited two studies which purportedly show that reporting drives at-risk persons underground. These studies were conducted in 1986 and 1987 in Oregon and South Carolina. At that time, legitimate doubts existed as to the accuracy of the Western Blot and ELISA tests for the HIV virus. AZT and aerosolized pentamidine, moreover, were not available to AIDS patients and asymptomatic HIV carriers. Today, everyone accepts the reliability of these tests and infected persons have therapeutic options that were unavailable at the time these studies were conducted.

Happily, we have long since dispensed with the reasons for an at-risk individual to go underground. H.R. 4785 is the AIDS Prevention Act of 1990, not 1986 or 1987. Of course, in 1986 or 1987 AIDS legislation could not have included the word "prevention" in its title. Hopefully, over the next five years more therapies, and perhaps even a vaccine, will be available to infected persons. If that is indeed the case, we must have a complete public health response to the epidemic in place.

#### MEDICAID AND IDENTITY-LINKED REPORTING

Finally, as mentioned earlier, an early version of this legislation contained an expansion of the Medicaid program to allow low income individuals who are infected with the HIV virus to qualify for a limited package of Medicaid benefits, including access to therapeutic measures such as AZT and aerosolized pentamidine. In order to qualify, the infected individual would have to reveal all sorts of identity-linked information to a plethora of state and federal Medicaid bureaucrats. Typically, this information includes the individual's address, phone number, social security number, and so on. Under most Medicaid programs, moreover, eligible individuals must submit information about the assets available to spouses and parents.

Clearly, the scope of such disclosures goes well beyond the type of information required to carry out partner notification programs. Yet, in this limited instance, the fear that these persons will go underground and avoid receiving beneficial and life-extending therapies does not dissuade the proponents of this expansion. Why? Because it would be irrational for individuals to act in this manner. This same reasoning, I submit, applies to reporting for traditional public health purposes, such as partner notification.



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## CONCLUSION

In summary, H.R. 4785 is an improvement over current law in many respects. With one glaring exception, the absence of identity-linked reporting, it establishes a sound public health response to the HIV epidemic.

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